THE FUTURE OF MAIL DELIVERY IN THE UNITED STATES

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ECONOMIC GOALS AND INTERGOVERNMENTAL POLICY

OF THE

JOINT ECONOMIC COMMITTEE
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THE FUTURE OF MAIL DELIVERY IN THE UNITED STATES

FRIDAY, JUNE 18, 1982

Congress of the United States,
Subcommittee on Economic Goals
and Intergovernmental Policy
of the Joint Economic Committee,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 5110, Dirksen Senate Office Building, Hon. Steven D. Symms (member of the subcommittee) presiding.

Present: Senator Symms.

Also present: Samuel J. Rouston, legislative assistant to Senator Symms; and Taylor R. Bowlden, staff assistant, Senator Symms' office.

OPENING STATEMENT OF SENATOR SYMMS, PRESIDING

Senator Symms. Good morning. The Subcommittee on Economic Goals and Intergovernmental Policy of the Joint Economic Committee will now come to order.

The Chair wishes to apologize to all of you who have been waiting here for the last half an hour, but as you know, the Senate was in last night until 2 o'clock and as it turned out an amendment dealing with bilingual education which I was interested in was offered by Senator Hayakawa. It was the first order of business this morning and I was unable to leave the floor. In view of the outcome of the amendment and the side that I was on, maybe I should have come here because we didn't win anyway.

But I do wish to welcome all of you here this morning as we begin this first of 2 days of hearings on the future of mail delivery in the United States.

Our society is currently undergoing a major revolution based on technological advancements. These advances are occurring in geometrically increasing numbers. Such advances, while manifesting themselves in many areas, are nowhere more apparent than in the field of communications which includes the written as well as the spoken word.

This Congress has been deeply involved in legislation which recognizes the need for substantive change in Federal laws which govern telecommunications. Yet, as appropriate and overdue as this is, such review unfortunately has not addressed an area of communications which is equal to telecommunications in importance to our national welfare. This area is mail delivery in the United States and it has been a decade since major change was provided for by congressional action.

It is in the area of the written word and the transmission of documents in the United States that we are in danger of finding ourselves badly underserved in the future. This is because, though there has been extensive past consideration given on the U.S. Postal Service and the status of current mail delivery in the United States, there has not been an adequate focus on what lies ahead regarding the delivery of mail in our country. This is not to say that no consideration has been given to future mail delivery in our country, but it is to say that we in the Congress have not provided a mechanism for beneficial change in this area. Because of this, we as a Nation are in jeopardy, through inaction, of adopting for the future a mail delivery system that does not adequately meet our needs and which came about in a piecemeal haphazard development.

We currently have, even with what many consider to be major deficiencies, what I personally believe to be the finest Postal Service in the world. The pickup, moving, and delivery of mail is a massive enterprise. The men and women of the U.S. Postal Service employees now handle approximately 110 billion pieces of mail and 200 million packages each year. This service, of vital importance, has, for the most part, met our national needs quite adequately.

Nevertheless, we as a Nation must review our present mail delivery arrangements in light of certain revolutionary changes in technology and electronic systems that will permanently change how we as a society communicate one with another.

Such change will literally place at our fingertips the ability to instantaneously transmit information in to distant homes and businesses to an extent heretofore unknown.

Mail services that we now consider commonplace and necessary will not be required or needed. The structure of our present mail delivery system which meets our current needs, will of necessity require substantial alteration to meet the demands of the future.

Because the future is upon us, it is necessary that we take action now which will permit us to control the course of events in this matter. We must exercise the foresight, free of parochial interests, that will allow us to structure comprehensive national postal policy for the future.

I fully realize the nature and scope of such an undertaking and of the problems involved. Not surprisingly, mail is an emotional issue laden with conflicting interests and needs. However, I note with interest a recent National Federation of Independent Business poll which indicated that 72 percent of all respondents nationwide favor basic and fundamental change in the manner in which we deliver mail in the United States. Only 22 percent favor maintaining the present system. This wide spread held true regardless of whether a State was heavily or sparsely populated.

It is my intent, with the help and support of many others, to look into the issue of the future of mail delivery in the United States. These hearings complete one link in a chain of events which began with the introduction of S. 1801, a bill to eliminate certain provisions relating to private carriage of mail. However, I want to point out and emphasize that these hearings are not on S. 1801. The purpose in introducing S. 1801 was to serve as a focal point, a beginning for discussion on the issue of future mail delivery in the United States.

These hearings, and what other future actions we might find necessary, will lay the groundwork for the development of comprehensive legislation that will meet our national mail delivery needs.

More specifically, these hearings will address the issues of: (1) the development of the Private Express Statutes; (2) the current regulations which govern the U.S. Postal Service system; (3) the possible role of private carriers in the delivery of mail in urban and rural areas; (4) changes in the postal laws which would be required by deregulation of the postal monopoly; and (5) the future of the U.S. Postal Service system (especially with regard to the telecommunications industry and the development of privately owned and operated parcel delivery systems).

It is my intention to leave the hearing record open for the submission of written statements from interested parties. Further, it is my intention to circulate the testimony and results of these hearings among recognized postal experts for the purpose of receiving their comments which will then also be part of the record. I would be pleased to receive recommendations on persons who might be of assistance in this regard.

I am pleased that these hearings have generated positive and cooperative responses from so many.

I'm delighted that we have been able to bring together such a wide and varied body of expert witnesses to help us in our deliberations and am anxious to hear and read their testimony.

A number of Members, although unable to attend these hearings because of scheduling difficulties, have furnished statements to the subcommittee. And, without objection, I will submit these statements for the record at this point.

[The statements referred to follow:]

STATEMENT OF HON. QUENTIN N. BURDICK, A U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

As a Senator from a predominantly rural State, I can well appreciate the dire effects that deregulation of the Postal Service will have on a vast expanse of our country. I cannot endorse the proposed deregulation for the very reason that it will greatly inhibit the people I represent.

To repeal or weaken the U.S. Postal Service's monopoly on the carriage of mail is a grave act. A system that has been in existence—with minor changes—for longer than the United States has been a country, cannot be drastically curtailed without severe damages resulting.

I do not feel that those who propose this deregulation fully understand the implications of their proposal. Some of the major points we must consider include drastic changes in postal rates with a large portion of the people feeling the subsequent increase; who will deliver the mail to rural areas?; who will take the responsibility for mass mailings to private residents such as those from the Internal Revenue Service and the Social Security Administration?

It has been the business of the U.S. Government for more than 200 years to assure prompt, reliable, and efficient mail delivery services to *all* patrons in *all* areas. The Government has held a monopoly on the Postal Service for an important reason; it was the intent of Congress from the beginning to provide for effective postal service to all communities—be they urban or rural. Too, the Federal Government has provided funds necessary to run the Postal Service and keep it a universal system. Therefore, mail delivery has been guaranteed to everyone regardless of where they live, and no post office will be closed down solely for operating at a deficit.

The Postal Service was designed to be funded by the Public Treasury for the purpose of providing a service, *not* for making a profit. If cost effectiveness had been a major policy consideration, why do we have free mailings for the blind, broad rural delivery services, or special rates for educational materials?

In a large concentrated metropolis, the costs could conceivably be held down by private systems, but no private system could possibly give that guarantee to the more sparsely populated areas of this country or those of lower income. I question whether this Congress is ready to appropriate the funds necessary to support these unprofitable postal services should the Private Express Statutes be repealed. As one Senator who has been actively involved over the years in the securing of adequate funds for the Postal Service, my senses tell me we are not prepared to spend the type of money I speak of.

I would like to emphasize once again, the extent of damages that will be done if the deregulation were to go into effect. To open up a system that has always been the sole responsibility of the Government, could only cause mass confusion. All of this can be avoided by abandoning this idea of deregulating the Postal Service, and I urge everyone to consider the resulting serious consequences should legislation of this nature be passed.

I, for one, would not like to see people in rural or lower income areas who rely on the Postal Service for contact with the rest of the world, be suddenly excommunicated from the rest of the country due to their location, or for financial reasons—which deregulation of the Postal Service could realistically cause.

STATEMENT OF HON. LAWTON M. CHILES, A U.S. SENATOR FROM THE STATE OF FLORIDA

Senator Symms, I thank you for this opportunity to express my views on the importance of the private express statutes to Florida, especially to the vast number of rural communities whose residents rely greatly on their mailbox as their link with the outside world.

We all know that the American people have the most contact with the Federal Government through three agencies—the IRS, the Social Security Administration, and the Postal Service. We also know that we hear from our constituents when these agencies don't come through for them. This especially true about the Postal Service. All of us in the Congress know through our mail contact with our constituents, what importance the people place on receiving goods, reliable mail service to their homes and businesses, whether they are located in urban or rural communities. Our public does not regard mail service as just another commodity for which they pay, like many other services. No, they regard it more as an obligation which their Government owes to them and which they deserve whether they live in the heart of the State's capital or on the rural route in the middle of nowhere. Every community expects to have its own U.S. Post Office and I can tell you that every community in my State will fight anyone who proposes to take their personal Post Office or delivery away. That Post Office stands as their symbol of cooperation and obligation with their Government as well as their symbol of status as a community.

And, it is for these reasons that I cannot support the repeal of the Private Express Statutes which would result in allowing commercial carriers to handle first class mail. I am opposed to any changes in the present law which will result in the termination of service to many rural communities. Yes, it is probably true that opening up mail delivery to private companies may well result in cheaper postal rates for city deliveries. But, it would also mean that prices for postage in lower-volume, rural communities would most likely be substantially increased. It just doesn't make sense to me and is certainly unfair to charge people in rural America more for postage than residents of urban America. Today, everybody pays the same rate and as much as they complain about that rate, I'd sure hate to be the one to tell them that because they live on this side of a particular boundary they have to pay a higher rate to get that birthday card to their dear old Aunt Mabel.

The attachment to the idea that the Government's postal system should go everywhere and charge everyone the same is deeply embedded in the national consciousness, because its roots lie early in the history of this country. As the Nation spreads across the continent, postal services have always been extended wherever Americans have settled, before the service could be justified in a strict cost accounting. This has been our national policy because postal communication has been such a vital link both in promoting the economic growth of the country and in drawing it together as a unified people. Traditions which have long played so crucial a role are and should be hard to change. Because they serve as part of the heritage of common values which serve to unite the Nation, any proposal to abandon these basic national postal policies should carry a very heavy burden of persuasion.

I do not believe that burden can be met for the elimination of our postal universal service and uniform rate policies.

Without the Private Express Statutes, these policies could not be maintained. We could not hope to continue to pay for a U.S. Postal System going daily into every community and by every home if much of its supporting revenue were to be diverted to selectively competing private carriers. It has always been a touch-and-go situation to balance postal costs and revenues as it is. There is no question that services would suffer drastically if revenues were seriously depleted through lost business. By the same token, rates would be sure to rise dramatically if a uniform-rate U.S. Postal System had to compete with more flexible and selective private competition. The postal system would be left with the harder and more expensive task to serve business. The smaller revenue base would set in motion a cycle of rapidly increasing rates driving away more and more business.

Experience during the past 2 years should show that we could not expect to count on bigger appropriations to stem the tide of service deterioration and rate escalation which would come from loss of the Private Express Statutes. Given today's budgetary realities, the Congress is not able to provide full funding for the comparatively minor level of public appropriations now authorized for postal purposes. Any thought of trading in the Private Express Statutes for an increased reliance on appropriations as the basis for maintaining service and rate levels is simply not realistic.

The concept of a universal national postal system with uniform rates, supported by the Private Express Statutes, has the great benefit of simplicity and familiarity. Everyone benefits from having an understandable system which links everyone together and is easily accessible. The benefits are not just for rural and remote areas, but also for the business districts which have a simple, ready way to reach their customers anywhere in America.

Our postal system is a system which the American people understand and appreciate. They complain when it fails to do the job that it promises to do. They do not complain about the task we have set for it to accomplish. They want to keep their Post Offices and their mail services, and the Private Express Statutes are needed to see that the people get the service which they expect the Congress to preserve for them. I am told that currently the Postal Service handles about 105 billion pieces of mail annually. With this great workload has come more efficiency than in the past. I don't think now is the time to be making major changes in a system that does serve all of the people well, most of the time, in all of our communities.

I thank you for allowing me to share my views with you.

STATEMENT OF HON. DENNIS DECONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator Symms, Article I, Section 8 of the U.S. Constitution specifically gives the Congress the authority to establish post offices and post roads. As recently as 1978, the U.S. Court of Appeals upheld the constitutionality of the Federal postal monopoly. I believe that this Congress would be doing this country a great disservice if we were to ignore the Court's findings and the intent of our Founding Fathers.

Certainly, deregulation is a desirable goal, and in most instances I am a strong and vocal supporter of deregulation. However, if we were to open mail delivery in this country to competition, the inevitable result would be chaotic, inconsistent, and inadequate mail service.

The Private Mail Carriage Act of 1981, S. 1801, would, in the short run, provide cheaper and speedier service to densely populated urban areas. In the long run it is likely to cause expensive and possibly erratic service to the great majority of rural areas in this country. As one example, look at my own State of Arizona which has a largely rural population. I doubt that many private companies would be clamoring to deliver the mail between Snowflake, Arizona, population 3,510, and Parker, Arizona, population 2,542, a distance exceeding 300 miles with no connecting interstates. And if a private concern were willing to deliver the mails, what price would rural Americans have to pay for their delivery service?

Certainly, it is one of the responsibilities of the Federal Government to insure reasonable, timely, and affordable postal service. The crazy quilt of mail delivery that would spring up as a result of S. 1801 would result in inconsistent pricing, unreliable service, and high prices for rural America.

In recent years, we in Congress have sought to decrease government regulation and government interference in the marketplace. On the whole, I have supported these actions. However, I must oppose S. 1801 because of the disastrous effects it will almost surely have on this country. I urge this subcommittee and the Senate to take a close look at the testimony of other Senators, the Postal Service, and the postal unions before causing permanent damage to the best mail delivery system in the world.

STATEMENT OF HON. NANCY LANDON KASSEBAUM, A U.S. SENATOR FROM THE STATE OF KANSAS

Knowing that your subcommittee has been examining the Private Express Statutes, I want to take this opportunity to express concern about the adverse effect which repeal of the statutes would have on mail service in rural areas.

Although large metropolitan areas would undoubtedly continue to receive reliable mail service under private delivery systems, it is highly unlikely that commercial firms would be willing to maintain adequate service in less-populated rural communities. I am keenly aware, as I am sure you are, of the importance which individuals in small communities place on mail delivery. It is essential that dependable and reasonably priced service continue to be available in these areas.

I hope that you will take these concerns into consideration as you further review this issue.

STATEMENT OF HON. GEORGE J. MITCHELL, A U.S. SENATOR FROM THE STATE OF MAINE

I would like to thank the Subcommittee on Economic Goals and Intergovernmental Policy for this opportunity to testify on the future of mail delivery in this country.

One issue that should be addressed in any discussion of the future of mail delivery in the United States is deregulation of the Postal Service. This proposal would have widespread and harmful effects in my home State of Maine.

We all know, and appreciate, how important the mail is. In Maine, the lives of many people, primarily elderly folks, revolve around the delivery of the day's mail. In many towns, the local Post Office serves as the center of community life. The Federal Government has a responsibility to insure that the Postal Service continues to provide efficient, cost-effective service to all regions of the country.

Deregulation of the Postal Service would repeal the Private Express Statutes. These laws were enacted in 1972 and grant the Postal Service a monopoly on the delivery of first class mail. I believe that repeal of the statutes would not be in the best interest of either Maine or the Nation.

The purpose of granting the Postal Service a monopoly on the delivery of first class mail is to insure uniform service in all areas of the country: both urban and rural. There is an assumption implicit in any attempt to repeal the statutes that competition for the delivery of mail will lower costs and improve service. While this may be true in some parts of the United States, it certainly is not true in rural States like Maine.

Maine has a low-population density. Therefore, it is more costly to deliver a letter in Maine than in more populous States.

If the Postal Service is deregulated and the Private Express Statutes repealed, I fear that private firms may move into metropolitan areas where it would be profitable to deliver mail because of the high concentration of people. This would result in major operating losses for the Postal Service and could force the Postal Service to raise its rates to make up the difference. The end result would be that people living in rural States like Maine would be forced to pay more for their mail service with little, or no, increase in service.

In conclusion, let me say that I support efforts to improve the overall efficiency of the Postal Service. But, repeal of the Private Statutes would not accomplish this goal. Rather, it would adversely affect those living in rural areas of the country.

STATEMENT OF HON. DONALD W. RIEGLE, JR., A U.S. SENATOR FROM THE STATE OF MICHIGAN

An issue is facing the Congress that may potentially touch each and every citizen; repeal of the private express statutes. Since 1792, when these statutes were enacted, our Nation has been striving to maintain a universal system of postal services. These statutes grant the U.S. Postal Service the exclusive right to carry letters.

The role of Government in the delivery of correspondence can be traced to our origins as a nation. This role has grown so that citizens throughout the United States are guaranteed equal access to the system. The efforts to repeal or modify the private express statutes will inevitably produce inequities in the system, and may damage the entire network of receipt, forwarding, and delivery of correspondence.

The most evident threat to the system will be the "cream skimming" that will occur upon repeal of the statutes. It is almost certain that once private companies have the right to deliver mail, the lucrative, high density, high volume areas will become the province of commercial entities, while the difficult, remote, and primarily rural areas will remain the responsibility of the Postal Service.

If this were to occur, our rural residents would suffer, since the per-unit cost of delivery will have to rise. Congress will be faced with the prospect of higher subsidies, simply to maintain rural services, and that is intolerable given our need to reduce Government expenditures in all parts of the budget. I question whether the Congress wants to take an action in the near future that will lead to deleterious consequences in a very short time.

The Postal Service touches everyone's life, more so than any other Federal agency. I urge my colleagues to consider carefully the effects that the repeal of the private express statutes would have upon our responsibility to provide safe, dependable, and universal mail service to all of our citizens.

JOINT STATEMENT OF SENATOR TED STEVENS, ALASKA; SENATOR DAVID H. PRYOR, ARKANSAS; AND SENATOR CHARLES McC. MATHIAS, JR., MARYLAND

The role of the Private Express Statutes in supporting our national postal system is an extremely vital one. It is the cornerstone on which our Postal Service depends. Its existence allows us to make available to all Americans throughout this vast country an economical and viable method of communicating with one another through delivery of hard copy letter messages. We intend to review the history, content, and purpose of these statutes, which have served this country long and well, and have helped to give us by far the best postal system in the world.

The Private Express Statutes help to support a universal service for all sections of the country at uniform rates, by reserving to the U.S. Postal Service the exclusive right, with a number of important exceptions, to carry "letters" for compensation. It is important to focus on the word "letters." The Private Express Statutes do not cover all first-class mail, just "letters." Moreover, the courts have affirmed that they do cover letters of other classes than first class, such as third-class advertising circulars.

From the beginning these statutes have been a central part of the Nation's postal laws. They are the direct descendant of an act approved by the founders of this country in 1782 in the Continental Congress. These statutes, which are similar to provisions found in the postal laws of countries throughout the Western World, have stood the test of time. They have needed adjustment only infrequently over the course of the Nation's history, despite the tremendous growth of the country and the vast technological change which has improved the system in generation after generation. The Private Express Statutes have lasted over the years because they do the job which they are designed to do, and no more.

We do not believe it is necessary for us to defend these statutes. Their critical contribution to the Nation's universal postal service structure over 200 years is in itself eloquent testimony. But, we do want to stress that the burden of proof is on any individual or corporation that would suggest our present postal system be dismantled. We urge all to consider the old adage: "If it ain't broke, don't fix it." It must be proven that the Postal Service has collapsed before any such radical changes are made to the Private Express Statutes. Those of us who have the responsibility to oversee the postal system and assure the public interest is served, be it in Shismaref, Alaska; Baltimore, Md., or Siloam Springs, Ark., must be convinced not only that the Postal Service has failed to provide adequate service at reasonable cost, but that an alternative system will serve the American public better.

The Private Express Statutes are safeguards with reasonable limitations.

They apply only on post routes, where the U.S. Postal Service operates.

A general exception to the statutes permits an organization to carry its own letters using its own employees.

Another excludes letters relating to some part of the cargo or article carried.

The statutes made an exception for not more than 25 letters carried by special messenger employed for the particular occasion only.

A broad exception permits any letter to be carried outside the mails if it is properly addressed and sealed in an envelope, if applicable postage has been paid and is indicated by stamps canceled in ink or by postage meter stamps on the envelope, and if the date appears on the envelope in ink.

Supplementing these exceptions is a provision which authorizes the Postal Service to "suspend the operation of any part" of section 601 of title 39, "where the public interest requires the suspension." The Postal Service has adopted both temporary and permanent suspensions. The temporary suspensions have covered situation in which labor stoppages or other conditions have interrupted U.S. mail service, particularly to foreign countries. The principal permanent suspensions permit private carriage of certain data-processing materials and "extremely urgent" letters. The suspension authority has given the statutes the flexibility which is needed to make them responsive and workable as times change.

Universal mail service has been a great boon to the economy of this country, and has helped to stimulate business growth and competition much more than restrict it. A great deal of private competition has flourished and has grown as the Postal Service has grown. The parcel shippers in this country place a high value on the various fine private parcel companies, while at the same time they support the continuation and improvement of parcel post. The Postal Service was the pioneer in the recent and ongoing boom in the parcel express market. Express mail showed the way for the other private services which have followed it since it was started in 1970, and both express mail and its private competition continue to grow in favor with the public.

The Private Express Statutes are needed just as long as this country continues to require a universal postal service with uniform rates. The public insists on this kind of service, and the Private Express Statutes remain a necessary companion of that service.

It is an inescapable fact that we cannot have both the security and equity of a universally available Government mail service and require it to split up its present mail volume with competing private systems having more limited aims and responsibilities. A single nationwide network reaching every home and business can be maintained at a reasonable cost only if it continues to have large volumes of mail flowing through the system.

This kind of high-volume system has enabled the United States to have postage rates which are lower than those in any of the other Western industrialized nations, even though most foreign systems are more heavily subsidized. We don't believe for a moment that profit-oriented competition from the private sector would be able to provide postal service at today's levels throughout much of the country for anything like the present rates. We cannot see private firms delivering mail to small communities throughout this Nation. What we would get is higher rates and less service for just about everyone, and a tremendous disruption of the economic lifeline of this country, which depends heavily on the mail system for communication between business and the consumer.

The only way to even try to offset the effect of siphoning away mail revenue from the postal system would be to pump large sums of taxpayer money into the system to make up for revenue losses. And with today's budgetary realities, we simply can't afford it, and we know it is not going to happen. Even the token public service appropriations that are now authorized for the Postal Service are not forthcoming in the current climate. So, it is a fantasy to think that we could call on the appropriations process to pick up the cost of maintaining a universal postal system going into every community and serving everyone. The revenue protection which the Private Express Statutes afford is the right way to keep a financially healthy system that can pay its own way, without calling for vast sums from the Treasury.

We recognize that some contend that competition for carrying first class mail would require the Postal Service to be more cost-conscious in their operation. We believe we, as Members of Congress, can and should demand that the

Postal Service run a lean and taut ship. We have tried to impress on the Postmaster General that he should make every effort to do so. We welcome and encourage our friends in Congress to join in that effort. Whether we like it or not, the public holds us responsible for the action and performance of the Postal Service, even if we have little control over the actual operation of the Postal Service or its rates. We can change that by fine-tuning the Postal Reorganization Act of 1970, but not by dismantling the keystone of the Postal Service, the Private Express Statutes.

The Private Express Statutes are an inescapable adjunct of the kind of Government-provided postal services which we have demanded in this country. The American people want to keep their services. They will continue to need these statutory protections for the kind of universal service that we rightly insist on retaining.

STATEMENT OF HON. MARK ANDREWS, A U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

I want to express to your Subcommittee my support of the Private Express Statutes and my opposition to deregulation of the U.S. Postal Service. I have always considered the Postal Service just that—a service to the people of the United States. Through the years the service has had a commendable record and the American public accepts such service as a matter of course.

However, if the Private Express Statutes are repealed, the rural, less populous areas of our country will be left with virtually no service at all. It's quite apparent commercial operators would seek the metropolitan areas, which would be economically attractive, but avoid less populous areas. I'm sure you're aware of the devastating effect this would have in the rural areas of such states as Idaho and North Dakota as well as rural areas of states with large cities.

I would certainly urge thoughtful consideration of the 1973 Kappel Commission Report to President Nixon in which the public service concept of our postal service is defended.

I appreciate the opportunity to submit this letter for inclusion in your Subcommittee report.

STATEMENT OF HON. EDWARD ZORINSKY, A U.S. SENATOR FROM THE STATE OF NEBRASKA

S. 1801, recently proposed by Senator Symms of Idaho, would permit private contractors to take over the collection, transportation and delivery of first-class mail.

The present mail statutes guarantee uniform rates and services for all domestic first class mail, regardless of destination. If S. 1801 is passed, private services could take over the less expensive, easier, more profitable urban routes, offering reduced postage rates. This would be at the expense of providing service to rural communities. The U.S. postal Service would be left with the more expensive, more difficult, less profitable routes in low volume mail areas.

Opening first class mail delivery to the private sector might bring short-term benefits, but its overall effects would be detrimental. A shared system would be both costly and confusing. Rural areas would undoubtedly receive fewer services and/or would be forced to pay more for the services that were available to them. Increased government subsidies would be required as well. The loss of volume would certainly weaken the postal system itself.

The USPS is doing a very credible job of improving its service. We cannot undermine these efforts by taking away the very essence of USPS' existence. The Postal Service is authorized by the Constitution to provide service to all areas, regardless of location or cost. It does not seem fair or wise to allow private firms to "skim off the cream" and require the tax-funded postal service to provide service to the more undesirable areas.

In addition, S. 1801 would repeal the Private Express Statutes, resulting in the loss of thousands of jobs since the Statutes recognize the Postal Service as the exclusive carrier of the mails.

The bill's sponsors believe that S. 1801 will increase competition and therefore benefit consumers. As a former Omaha businessman, I can appreciate that rationale. I am also a strong believer in free enterprise and the value of competition. However, in the case of first-class mail delivery, I do not believe that private contractors could provide cheaper or more efficient mail delivery, especially to the rural communities of the United States. Rural residents need and expect dependable home delivery of first-class mail. Rural areas will not benefit from increased competition; in fact, they will probably be less well served.

Statement of Hon. Glenn English, a U.S. Representative in Congress From the Sixth Congressional District of the State of Oklahoma

I would like to express my strong support for continuation of the Private Express Statutes, which confer on the U.S. Postal Service its so-called monopoly on the delivery of letter class mail.

As Chairman of the House Government Operations Subcommittee with responsibility for overseeing the economy and efficiency of postal operations, I have taken frequent issue with the manner in which postal management discharges its duties. However, when I have objected to Postal Service initiatives, it has been because I have believed them to be ill-conceived or to have had the potential for considerable waste. During the past several years, the subcommittee has invested considerable waste. During the past several years, the subcommittee has investigated and found wanting a number of Postal Service activities including the 9-digit ZIP Code proposal, the penalty mail program and the operation of E-COM. Nevertheless, I have developed a keen sense of just how good a job the U.S. Postal Service does in serving the citizens of this country.

In addition to gaining an appreciation for what it takes to deliver over 100 billion pieces of mail a year, I have come to understand the importance of the Postal Service's letter mail monopoly to maintaining a viable universal postal system. While, generally, I support the principle that the government should not provide services in competition with the private sector, the proposal to "deregulate" postal services seems to argue that there is no role for the government. I do not agree with that proposition. Moreover, there is little doubt in my mind that either repealing or weakening the Express Mail Statutes would result in a significant deterioration in postal services with considerably higher cost for much of the country.

One of the most lucid commentaries on this matter appeared in the February 20 issue of the National Rural Letter Carrier. I have attached a copy of that article which I respectfully request you include in the hearing record, along with my letter.

Thank you for the opportunity to comment.

Attachment.

Position of the National Rural Letter Carriers' Association Regarding the Private Express Statutes

1. What are they?

The Private Express Statutes are a group of Federal laws which are collectively codified in Title 18, United States Code, Section 1693–1699 and 1724, and Title 39, United States Code, Sections 601–606. They confer on the United States Postal Service the exclusive right to carry letters subject to certain exceptions. Based substantially on court decisions and opinions of the U.S. Attorneys General and of its chief legal officers, the Postal Service has defined a letter as a message directed to a specific person or address and recorded in or on a tangible object.

2. Recent changes in the statutes:

In November 1979 restrictions on private delivery were suspended for "extremely urgent" letters, where it was demonstrated the Postal Service could not competitively provide such timely service. On October 10, 1980, an additional suspension was adopted for advertisements which accompany addressed merchandise or periodicals. Finally, certain clarification to the regulations were made, including the position that a message is considered to be "addressed" and subject to the restrictions if it is marked for delivery to a specific person or place or delivered in accordance with a "selective delivery" plan.

3. Enforcement:

Violations of the Statutes are punishable by fine, imprisonment, or both. The Statutes may also be enforced by means of an injunction. Violators may be required to pay the Postal Service for postage revenue losses incurred as a result of the violations.

4. Why are they needed?

Essentially, the Statutes protect the revenue of the Postal Service so as to allow the Postal Service to fulfill the Constitutional mandate that it provide "prompt, reliable, and efficient service to citizens in all areas," and to "render postal services to all communities." They provide for a "natural monopoly" to avoid high duplicate capital expenditures of resources.

Comparisons can be made with other business entities in the public utilities field, such as the phone, electric and gas, and water companies. The revenue sources protected by the Statutes, in short, help to maintain fairly stable and affordable rates to insure a universal postal service by disbusing irrevocable fixed costs over a wider revenue base.

The Private Express Statutes also insure smooth domestic postal operations with 104 foreign postal administrations. Through the Postal Inspection Service, which no private entrepreneur would establish, the Postal Service provides comprehensive legal controls over mail to guard against fraud and false representation, as well as guaranteeing the sanctity of the mail. Finally, the Postal Service maintains appropriate records and forwards mail for the 20–25 percent of Americans who move each year.

5. What Would Competition Do?

Private firms which exist primarily to make a profit would obviously concentrate their efforts in densely populated areas where high mail volume can be anticipated. Avoiding the investment in fixed costs and excessive logistical commitments, their concentrated activities no doubt would be profitable and could result in lower postal rates—but at the expense of providing service to rural communities and even innercity ghetto areas. Since their businesses would be localized or even regionalized, what mail is left would find its way to the Postal Service, and it would in fact have a monopoly by default, in the areas avoided by private enterprise. The consequence of this would be higher postal costs to those using the Postal Service or greater subsidies from the federal treasury to overcome the disparity of lost volume and revenue and the fixed costs which can not be reduced proportionately.

Private enterprise would not provide those services described above nor would they assume the role of facilitator to numerous government programs in which the Postal Service has been involved—such as Draft Registration, Alien Registrations, Food Stamp and Duck Stamp distribution and an outlet for Treasury Department Programs.

In conclusion, it is recognized that the Postal Service can and must be improved to achieve more reliable, efficient and cost-stable service to all our citizens, but the introduction of competition is not the panacea.

We therefore, strongly, recommend the retention of the Private Express Statutes.

Senator **Symms**. Our first witness this morning is Professor Wayne E. Fuller from the University of Texas at El Paso. Mr. Fuller will provide a history of the development of the Postal Service in the United States, including the role that private mail carriers have played in the past and the evolution of the private express statutes.

Mr. Fuller, welcome to the subcommittee this morning and please begin.

STATEMENT OF WAYNE E. FULLER, PROFESSOR, UNIVERSITY OF TEXAS, EL PASO

Mr. **Fuller**. Thank you, Senator. I've reduced my statement on the postal monopoly to a brief discussion of its origins and answering five questions relating to it.

First, what were the historic principles governing the U.S. Post Office; second, what were the effects of the challenge to the postal monopoly in the 1840's upon that postal policy; third, was the postal monopoly abused; fourth, did the postal monopoly make the mail service inefficient and resistant to change; and finally, is the postal monopoly outmoded?

The origins of the postal monopoly are rooted in the efforts of the European monarchs to control communication in their realms and to thwart conspiracies against them as they struggled to create nation states in the 16th century. The monopoly was strengthened in time first by the desire of governments to make money from their postal systems; then by the need for postal revenues for expanding the service; and finally by tradition.

Only the latter two explanations for the establishment of the government monopoly are applicable to the American experience: tradition, established by the British postal system in colonial America and the need for postal revenues that would be derived from the monopolized, and Congress bestowed the postal monopoly upon the U.S. Post Office in 1792. That same year, Congress developed the Nation's postal policy.

That policy contained three basic principles: First, the Postal Service was to be self-sustaining; second, the Post Office was not to make a profit as had been the purpose of the British Post Office, but was to use the postal revenues to extend the mail service; and three, Congress, not the Postmaster General, was to establish the Nation's post roads.

This new policy worked well until after the War of 1812 and Congress established so many post roads to keep pace with their western moving constituents that the postal revenues were inadequate to cover the cost of the service. This presented Congress with its first major dilemma in governing the Post Office. Was the extension of the Postal Service to be sacrificed to conform to the principle of the self-sustaining Post Office or was the pay-as-you-go rule to be given up in favor of the extension of the service?

Not until the 1840's when the rapid advance of the railroads network and the Post Office's high postage rates brought about a drastic reduction in postal revenues and the challenge to the postal monopoly itself did Congress find the answer to this question.

From the beginning of the Postal Service the postage rates based upon a number of pages in a letter and the distance a letter was to go had been extremely high. In 1843, for example, it cost 18½ cents to send a letter from New York City to Troy, but only 12½ cents to send a barrel of flour the same distance. For this reason, many Americans sent their letters outside the mails when they could. This practice became much more frequent when the expansion of the railroads made it possible for enterprising Americans to ride the trains, carry packages and letters from town to town for a fee.

This was, of course, a violation of the postal monopoly and the Post Office brought suit in 1843 against the Adams Express Co. to stop it, but the suit was lost. Whereupon, the express companies established opposition or alternate post offices, advertised their businesses and boasted of the superiority of their services over that of the regular Post Office. Although superior in some respects to the regular Post Office, the express companies carried only those letters that passed among the towns in the populated areas of the Nation and were profitable. The rest of the mail, the newspapers and the occasional letter directed to distant parts of the Union, the unprofitable mail, was left to the Post Office.

Nevertheless, a number of prominent people pointed to the improved mail service given by the express companies and demanded that Congress eliminate the postal monopoly. Others, however, less radical, pleaded that Congress at least reduce the postage.

In 1845, Congress answered the demand for the elimination of the postal monopoly with a law that strengthened that monopoly instead of abolishing it. But on the question of reducing the postage, Congress hesitated. Rural Congressmen were fearful that lower postage would result in postal deficits with the consequent reduction in their nonpaying mail service.

To overcome this opposition, urban Congressmen leaped from argument to argument and finally came to the happy conclusion that the Post Office, no more than the Army or Navy, needed to pay its own way, thereby paving the way for the solution of the crisis.

In 1851, a law was passed drastically reducing the postage as the urban Congressmen wished, but to secure this, they had to concede to rural Representatives that no post office was to be discontinued and no mail service diminished because of any reduction of postage revenues that might result from the lowering of the postage rate.

What, then, was the effect of this change to the postal monopoly, upon postal policy, and the postal service?

First, it began a quarrel between rural and urban Congressmen over the management of the mail service that was to last throughout the life of the old Post Office. Second, it meant the end of the principle that the postal service must pay its way. Third, it meant that if postage revenues were insufficient to extend the postal service, Congress would appropriate the money to do it, and it did.

Only 13 times between 1851 and 1968 did the Post Office pay its way. In all the years, Congress made up the difference.

Fourth, the new law began a trend toward the gradual reduction of letter postage that ended in 1885 with a rate of 2 cents for a 1-ounce letter going any distance in the United States. It is suggestive of the stability of the Nation's economy in this period that, from 1885 to 1968, the letter postage was changed only once when, in 1931, it was raised from 2 to 3 cents.

Fifth, the new law paved the way for a vast extension of the postal service. Freed from its old restraints, the Post Office brought the postal service to the Nation's most isolated people, made important improvements in the delivery of the mail, and added a number of useful postal services.

Finally, the new law ended the challenge to the postal monopoly. Indeed, so well did the American people regard their mail service in the aftermath of this law that not until the 1890's did the Post Office again come under serious attack for what was regarded in some circles as an abuse of the postal power and, at least indirectly, of the postal monopoly.

Ironically, the complaints came in part at least because of the superior service the Post Office had been giving to those who attacked it in the 1890's and early 1900's. By the 1870's, Congress had opened the mail to almost every kind of publication and to merchandise as well and so chaotic had the mails become that they were divided into four classes. The second class, which was at the heart of the trouble, was defined as letter mail that contained information of a public character or was devoted to literature, the sciences, arts, or some special industry. And 1885, the pastage on this mail was only 1 cent a pound.

Because of the cheap postal rate and somewhat vague definition of second-class mail matter, a vast torrent of periodicals, newspapers, advertising magazines, and paperback books poured into the mails increasing the weight of the second-class mail alone from 69 million pounds in 1881 to over 315 million pounds by 1896. Much of this material did not conform to the definition of second-class mail and some of the paperbacks were considered to be obscene by a number of postal officials.

In the 1890's, therefore, the Postmaster General began to deprive some publishers of their second-class mailing privilege and to ban some books from the mails. For this, he was accused of censorship and of the abuse of his power.

Had the Postmaster General in fact abused his power? Congress had earlier declared in the act, upheld by the courts, that obscene, lewd, lascivious, or indecent writings were unmailable. But whether this meant that the Postmaster General had the right to determine what was obscene or indecent was questionable.

In any case, most of the material barred from the mails was second-class matter that did not come under the postal monopoly, so that it could scarcely be held that Congress, in making some printed material unmailable, had abused the postal monopoly. Indeed, far from overstretching or abusing the postal monopoly, Congress rigidly restrained it through the years to prevent the Post Office from competing with private enterprise. In spite of repeated and vigorous demands from reformists to do so, Congress steadily refused to extend the postal monoply over the telegraph and telephone lines. For more than four decades, it also limited the parcel post to a 4-pound parcel service to appease the express companies to smalltown merchants and in the interest of other businesses sidetracked the postal savings bank until the early 20th century.

If the postal monopoly was not abused, did it not make the postal service inefficient and resistant to change?

It is arguable that had private companies been allowed to compete with it, the Post Office might have made improvements in its service more quickly than it did. But in perspective, and taking all things into consideration, the U.S. Post Office was a remarkably flexible and innovative public service.

Spurred on by the political interest of the Members of Congress, it had, by the close of the Civil War, revolutionized the way the mail was distributed and added numerous services, such as the city free delivery and the money order system.

After the war, it extended the postal routes to the most isolated areas of the Nation, established thousands of little post offices and as many communities and brought rural free delivery of mail to the farmers.

Indeed, once the principle of a self-sustaining Post Office was abandoned, the U.S. Post Office, with its postal monopoly, served the Nation very well and contributed immensely to the American civilization. It carried the news and reading material to the most isolated Americans and was often referred to as the "Great Educator." It contributed both directly and indirectly to the spread of the country's stagecoach lines, the building of roads, the development of steamboats, railroads, and merchant marine. Newspapers and periodicals relied upon it for their survival as did countless businessmen. Even democracy itself and the welding together of the sections into one Union owed something to this omnipresent arm of the National Government, which brings me to the final question.

Is the postal monopoly outmoded? It is perhaps not the role of a historian who is accustomed to telling what was to say what should be, but it may be appropriate to point out that most of the historic conditions out of which the postal monopoly grew and which made it so essential no longer exist. There is certainly less reason now than formerly to believe that the sanctity of the mails can really be protected by a continuation of the postal monopoly. Moreover, the day when the Post Office was the sole means of diffusing knowledge among the American people, which was a very costly undertaking, has long since vanished.

And finally, in creating the U.S. Postal Service in 1970, Congress supplanted the principle of service for the self-sustaining principle and made the new Postal Corporation strictly a business proposition with a goal of being self-sustaining in 1984.

To reach this goal, the postal service has already reduced or at least changed the service in rural America and raised the postage rates and now, like the Post Office in the 1840's, it finds its monopoly challenged.

Under the circumstances, it is certainly worth debating whether a Government corporation organized as a business engaged in private enterprise should retain the advantages of the postal monopoly.

[The prepared statement of Mr. Fuller follows:]

PREPARED STATEMENT OF WAYNE E. FULLER

The government postal monopoly as we know it today is traceable to at least four principal sources, none of which are precisely applicable to the postal monopoly in modern America. The origin of the postal monopoly is rooted in the efforts of European monarchs to control communication in their realms and to thwart conspiracies against them as they struggled to create nation states in the fifteenth and sixteenth centuries. The monopoly was strengthened over the years by the desire of governments to make a profit from the postal system, by the need for revenue to expand the postal service, and by tradition.

The history of the British postal system, from which the United States Post Office derived, offers a good example of the rise of the postal monopoly. The royal post, as it was called, was developed under the Tudor monarchs in the sixteenth century primarily to carry messages of the government too delicate to be entrusted to private posts. Fears of foreign intervention in the nation's affairs led the government near the end of the century to demand that all foreign letters be sent only through the royal post, and this restriction was gradually applied in the next century to all letters domestic and foreign.

This growing monopoly of the royal post over the carrying of letters was contested in the seventeenth century by private businesses until near the end of the seventeenth century when improvements in the service of the royal post made the competition of private posts all but impossible. In 1710 Parliament extended the government's postal monopoly throughout the growing empire, but by this time the primary purpose of the monopoly had shifted from the special need to control communication to the need to produce a revenue for the crown.

It was this postal system that was implanted among the English colonies in America and developed in the eighteenth century. Following British precedents it possessed the postal monopoly, and its purpose was to produce a revenue as well as to provide communication among the colonists and the governments of the colonies. In 1761, for the first time, it did produce a surplus of postal revenues.

During the American Revolution and the Confederation period, the Americans developed their own postal system modeling it upon the royal post the British had established in the colonies. So familiar, in fact, were the Americans with the idea of a postal monopoly that in 1792 when Congress, acting upon the authority given it by the Constitution to establish post offices and post roads, established the United States Post Office, the postal monopoly was not really debated. Congress merely followed the tradition that had been established and bestowed the postal monopoly upon the Post Office.

Yet the purpose of the postal monopoly given the United States Post Office, as it turned out, was not the same as it had been under the royal post. For three years following the adoption of the Constitution, while the old Confederation Post Office was kept temporarily in place, Congress wrangled over the law to establish a permanent postal system. This lengthy debate centered primarily upon the question of a postal policy for the new Post Office, and in the end Congress decided upon three basic principles. The first was that the Post Office must be self-sustaining; the second, that the Post Office make no profit, but use its surpluses to extend its services; and the third, that Congress, not the Postmaster General, must establish the nation's post roads.

So the United States Post Office, unlike the royal post, was not to make a profit. Instead the revenues it made from its postal monopoly were to be plowed back into the service, and until the War of 1812, few Congressmen found reason to quarrel with this postal policy or the postal monopoly. Each year new post offices and new post roads were established as Americans fanned out along the upper reaches of the Alleghany mountains, and the postal revenues were sufficient to meet the cost of the new service. But following the War, so rapidly did Americans move westward and so great were their demands upon the Post Office for postal service, that the postal revenues were occasionally unable to meet the needs of the new service.

This problem might not have surfaced so quickly had Congress been willing to delegate its power to establish new post roads to the Postmaster General. Had it done so, that official might have been able to establish new post routes in a manner at once less hasty and more in conformity to postal revenues. But Congress would not yield on this, for the power to establish post roads was of great political importance, and in each congressional session it passed a law establishing more post roads. And, because the Postmaster General had no choice but to establish postal service over the new roads Congress created, and because he could not change the postage rates to increase the Department's income, he was left with no option but to go in debt.

The result was that in the early 1820's the Post Office was spending more for new service than it was receiving, which raised a perplexing problem for Congress: was the extension of the postal service to be sacrificed in order to adhere to the principal of a balanced budget or was the principle of the balanced postal budget to be sacrificed for the extension of the service?

Congress was not ready in the 1820s to decide this question, and the Post Office moved uneasily through the 1820s and 1830s, sometimes paying its way and sometimes not as the post roads continued to advance toward the setting sun in order to keep pace with the westering Americans. But the rapid expansion of the railroads and the Post Office's high postage rates presented Congress with problems that challenged not only the Post Office's postal policy but the postal monopoly itself.

From the establishment of the Post Office in 1792, letter postage rates, based on the number of pages in a letter and the distance the letter was to travel, had been extraordinarily high to offset the cost of carrying the mail and extending the service. In 1843, for example, it cost eighteen and a half cents to send a letter from New York City to Troy, but only twelve and one half cents to send a barrel of flour the same distance. Through the years many Americans avoided paying the high postage rates by sending their letters outside the mail when opportunity offered, but it was not until the expansion of the railroads in the late 1830s and early 1840s that they began to break the postal monopoly openly and in large numbers by entrusting their letters to the care of those American entrepreneurs who were busily forming what came to be called express companies.

As the railroads were being built from town to town private businessmen began traveling along the railroad lines carrying parcels from place to place for a fee. From carrying goods that were not under the postal monopoly, however, they quickly advanced to carrying letters that were, and in the 1840s more than seventeen small express companies were engaged in that practice. Under the circumstances, the postal revenues, already troubled by the continued expansion of the service and the mounting costs of transporting mail over the new railroads, fell dramatically as the letter postage dwindled.

To make matters worse, there seemed little the Post Office could do to stop the hemorrhaging of the postal revenues. In 1843 it brought suit against the Adams Express Company for a violation of the postal monopoly and produced witnesses to testify that they had seen employees of the company transport letters. But the suit was lost because the law granting the postal monopoly to the Post Office was so poorly drawn, it could not be determined that the law had actually been broken.

After this, the express companies openly established opposition post offices, advertised their services, and boasted of their superiority over the regular mails.

And in some ways they were superior. Not only could they take letters from town to town faster than the Post Office could, but because of the Post Office's high postage rates they could do it more cheaply. Besides this, they often delivered the letters they carried directly to the homes of the addressees, a service the Post Office had not yet added.

But the express companies carried only the profitable mail covered by the postal monopoly. They took the letters and left the rest such as newspapers for the Post Office to transport. More importantly, the express companies took only those letters that entered the busy trade between cities. The occasional letters sent over the long and expensive mail routes of the South and West and in all rural areas were also left to the Post Office.

These facts were apparently lost, however, on a number of urbanites in the eastern cities who launched a vigorous attack upon the postal monopoly. Arguing that the success of the express companies proved that private businesses were superior to the government business, they suggested that the monopoly should be eliminated and the postal service be left to private enterprise. Other eastern businessmen, however, less radical in their demands, pointed out that they were forced to pay high postage rates in order to subsidize non-productive routes in the sparsely settled South and West and flooded Congress with petitions urging a reduction in the postal rates.

To the argument that the postal monopoly be eliminated Congress paid no attention and, in fact, strengthened the postal monopoly by the postal law of 1845 which made clear the illegality of sending a letter outside the mails. But it was not easy for Congress to accept the proposition to reduce the postage. The Postmasters General were reluctant to lower the letter postage rate lest it mean a loss of postal revenues and the inability of the Post Office to pay its way. More importantly, rural Congressmen, those from the South and the West especially, whose mail service never paid its way but had to be constantly expanded as settlers moved into the unoccupied lands, feared that the lower postal revenues that would follow the reduced postage would mean less service for their areas. Eastern Congressmen tried to persuade their colleagues that reduced postage rates would mean not less but more postal revenues because so many more letters would be mailed than before. And when this argument seemed to fall on deaf ears, they began to argue that the Post Office did not need to pay its way any more than the Army or Navy should pay its way. It was a service and Congress should, if need be, pay for it.

Still, rural Congressmen remained unconvinced and demanded that it be put in writing that if they voted to reduce the postage rates and the postal revenues fell, the existing rural service would not be curtailed and the demands for the expansion of needed service would not be rejected. And in an historic law passed in 1851 these demands were met. Congress drastically reduced the postage rates and stipulated that no post office was to be discontinued and no mail service diminished because of any reductions of postal revenues resulting from the reduction in postage.

This settlement was a major turning point in the development of the United States Post Office. Not only was it the first major compromise of many that were to follow between urban and rural America in the development of the postal service, but it also began the long trend toward reducing letter postage that ended in 1885 when the postage rate for carrying a one ounce letter traveling any distance was just two cents. And such was the stability of the nation's economy that from 1885 to 1958 the letter postage rate was changed only once, from two cents to three cents in 1931. Of more significance than all this, however, was the fact that the legislation of 1851 meant the end of the self-sustaining principle of the Post Office. By stipulating that the Postmaster General could not discontinue or curtail existing postal service or refuse to establish service even if a deficit resulted from the lowered rates, Congress clearly intended that it would appropriate money from the general treasury to continue the expansion of the mail service if postal revenues were insufficient to do so. And it did. Only thirteen times between 1851 and 1868, and those mostly in war time situations, did the Post Office take in more money than it spent; in all other years, Congress made up the difference.

Having successfully weathered the attack upon it, the postal monopoly, although criticized now and again by irate spokesmen, was not seriously challenged until the present time, and the Post Office, operating under the new policy that put service before the principle of self-sufficiency spread rapidly across the nation. New services were added from time to time to accommodate the people, and not until the 1890s when book publishers accused the Post Office of censorship and businessmen attacked the Postmasters General for an abuse of power was the Post Office again seriously criticized.

Because it was virtually the nation's only organized means of communication and because the spread of information or "diffusion of knowledge," as Americans called it, was believed to be of utmost importance to people living in a democracy, Congress admitted to the mails over the years not only newspapers, government documents, magazines, advertisements, books, and tracts of all kinds, but also, in the aftermath of the Civil War, four pound packages of merchandise, so that the United States Post Office, which had begun with the primary purpose of carrying letters, had become the largest transportation service in the nation. So vast indeed were the various items being mailed that to bring order from chaos the mails were divided in the 1870s into four classes with which we are all familiar. The second-class mail matter, which was defined as material containing information of a public character or "devoted to literature, the sciences, arts, or some special industry," was mailed after 1885 in accordance with the government's policy of diffusing knowledge, at the astonishingly low rate of one cent a pound. As a result of this cheap postage rate, the weight of the second-class mail alone rose from 69,952,432 pounds in 1881 to a staggering 315,000,000 pounds in 1895.

Of all this mail, only the letter mail, or first class mail, produced enough revenue to pay for itself and to help subsidize the mail on which the Post Office lost money. But the first class postage could offset only a fraction of the postal deficits, and in the end Congress was forced to subsidize the diffusion of knowledge under its policy of extending mail service whether it paid for itself or not. But the cost of the service grew as rapidly as the size of the mails, and in the late nineteenth century the Postmasters General, arguing that much of the second-class mail, particularly the paperback books, contained no information of a public nature, were not devoted to literature, and were, in fact, obscene in some instances, began to deprive some publishers of their second-class mail privilege, and, even banned some books from the mails. This drew a charge of postal censorship from the anguished publishers who condemned the Postmasters General for abusing the power Congress had given them.

The Postmasters General were on firm ground, however, so far as the law was concerned. Years before, Congress had declared that not all written material was mailable. In the 1870s any obscene, lewd, lascivious, or indecent writing and all articles and advertisements of articles used to prevent conception or to produce abortions were declared to be unmailable. Later Congress made it a criminal offense to send an obscene letter even if sealed.

If from the present perspective it appears that the Postmaster General had abused his power and committed an act of censorship, it should be remembered that this was a period when there was an agreement among Americans generally on what was obscene and what was not and on the necessity of preventing the spread of such material. Indeed, the Supreme Court itself upheld the laws on obscenity asserting that Congress's right to establish post offices and post roads carried with it the right to determine what was carried in the mails. But even if there had been an abuse of power, it was more an abuse of the Congress's postal power than of the postal monopoly. The second-class matter banned from the mails was not covered by the postal monopoly, and publishers were free to send their books by express, as they sometimes did, or by any other method available.

There was, of course, the law to prevent the mailing of obscene letters which did come under the postal monopoly, and it must be said that for a time, at least, the postal inspectors assiduously enforced this law. But on the whole the American experience was that the postal monopoly, so far from being abused, was so rigidly restrained by Congress that it was not even extended to control the new means of communication which were developing in the nineteenth century and which were being absorbed into most European systems.

Throughout its long history, the Post Office was a kind of proving ground for the theory of free enterprise that most Americans held dear. In the inadequacies of the postal system, champions of free enterprise found an argument against socialistic experiments. On the other hand, those who saw the danger of unbridled competition in the late nineteenth and early twentieth centuries, pointed with pride to the accomplishments of the Post Office as an example of the benefits a government owned business might bring to the people. But whether private companies could have given better service than the government owned Post Office, or whether the Post Office might have managed certain private communication systems better than the private companies, was never really tested. The postal monopoly prevented private companies from entering the postal business, and Congress prevented the Post Office from stretching its monopoly over the telegraph and telephone services.

At one time in the history of the country it was expected that the Post Office would monopolize the telegraph. The government had financed Samuel Morse's experiment in 1844 with the expectation the Post Office would take over the telegraph if it became successful. But the moment of decision came at the very time when the postal monopoly was under attack, and perhaps for that reason the telegraph passed into private hands. Nor could the sporadic attempts of various reformers in the nineteenth century induce Congress to extend the postal monopoly over the telegraph system, and, in fact, throughout most of its existence, the Congress prevented the Post Office from competing with private enterprise. For more than four decades the parcel post was limited to a four pound package service in order to appease the express companies and the small town merchants. Moreover, establishment of the postal savings bank, which was repeatedly proposed by reformers in the late nineteenth century and which many Europeans who came to America in those years were already accustomed to using in their own countries, was delayed until 1910.

Although the restrictions Congress placed upon the postal monopoly did prevent the postal service from achieving its full potential, there is no proof that the postal monopoly itself made the Post Office unduly inefficient, resistant to change, or unresponsive to the demands of the people. On the contrary, given the magnitude of the postal business and the necessity of waiting upon Congress for needed changes in the postal laws, the United States Post Office was a remarkably innovative public instrument that regularly added new postal services and made improvements in mail delivery.

By the close of the Civil War, the Post Office had introduced the pre-paid stamp, the envelope, the registry, money-order, and city free delivery services, and it had inaugurated that marvel of marvels in postal history, the railroad post office which completely revolutionized the way mail was handled. True, many of the postal innovations came in response to the demands of businessmen and urbanites, but the rural areas were never completely overlooked. Indeed, for nearly every postal improvement that benefited the cities there was an extension of the service of some kind for rural America. Long, non-paying rural mail routes were stretched throughout the rural areas of the South and West, thousands of little fourth-class post offices were established to serve the mail routes and give identity to as many small communities, and in 1902 the costly but much appreciated rural free delivery of mail experiment was made permanent and rural free delivery routes soon covered the American countryside. This service was soon followed by the establishment of the postal savings banks in 1910 and the enlargement of the parcel post system in 1913, both of which had long been demanded by the nation's farmers.

Interestingly, in view of the many laments made about the connection between the post office and politics, politics, after all, was largely responsible for many of these innovations in the postal service. Throughout the nineteenth century and well into the twentieth, taking the mail to the people was virtually the only direct service the national government performed for its people, and the mail carriers and postmasters were often the only representatives of that government the people knew. The service, moreover, was exceedingly popular in most areas of the nation, and therefore valuable to the politicians who could take credit for bringing the service to the people. The result was that politics was the leaven in the American Post Office that sped the building of the mail routes to the far corners of the land, inspired postal innovations, pushed through the needed postal legislation, preserved the familiar relationship between patrons and postmasters, and made the Post Office a public servant rather than a business.

Whether a private business engaged in carrying the mail would have been as responsive to the demands of the people and as efficient in performing the various postal services as the United States Post Office was will always be arguable. What is apparent from the postal record, however, is that as long as Congress placed service above the principle that the Post Office must pay its way, it served the people well, and made immense contributions to the American civilization. It contributed both directly and indirectly to the spread of the country's early stagecoach lines, the building of roads, and the development of steamboats, railroads, and the merchant marine. Newspapers and periodicals relied upon it for survival as did countless businessmen whose transactions and advertisements were carried largely by mail. Even democracy itself and the welding of the nation's sections into one mighty Union owed something to this omnipresent arm of the national government.

It remains, of course, to be seen whether the new United States Postal Service, established by Congress in 1970 will do as well with its postal monopoly as the old United States Post Office did. Unlike the old Post Office, the United States Postal Service is firmly organized on business principles and is expected to be self-sustaining by 1984. But to be self-sustaining the postal service has traditionally been forced to raise postage or trim the postal services. The new Postal Service has done both, and now, like the Post Office in the 1840 s, finds its postal monopoly challenged. Considering that the Postal Service was designed to act in all ways like a private business and given the great changes in methods of communication in modern America, the question of whether the United States Postal Service should retain its monopoly is indeed worth an American debate.

Senator SYMMS. Thank you very much, Professor Fuller, for an excellent statement. I have several questions I would like to ask you to have as part of our record. You will note that there aren't a great many Senators here this morning or House Members, as the House is out of town. It was not the intention for it to be out of town today but they are. But what I would like to do is leave my counselor, Sam Rouston, to ask you some of these questions so we can have them on the record and all have the opportunity to review them. That bell that rang in the midst of your testimony is calling me to the floor to vote. I will be right back but he can go ahead and ask a couple of questions in my absence and we can get it on the record and save going through the legislative correspondence if you have another minute or two.

Mr. FULLER. Sure.

Senator SYMMS. If you'll excuse me, I'll turn the mike over to Sam Rouston, my able counselor.

Mr. ROUSTON [presiding]. I might note for the record that Professor Fuller's correct name is Wayne E. Fuller. The middle initial was printed incorrectly and we want to correct that.

Professor Fuller, we appreciate your testimony this morning. We would like to focus on the historical aspects of your statement in certain areas.

Are you familiar with the history of postal attempts to enter businesses related to basic postal businesses such as banking, pneumatic tube delivery, telegraphy, parcel delivery, et cetera.

Mr. FULLER. Yes.

Mr. ROUSTON. Has the Post Office sought to enter such businesses and have these attempts been successful and has the public interest been served by attempts of the Postal Service to enter private areas?

Mr. FULLER. Well, as I said in my prepared statement, there was an attempt in the late 19th century to enter the telegraph business and, indeed, in 1844 when Mr. Morse developed the telegraph, Congress had supported it and appropriated money for it for that famous experiment going from Washington to Baltimore, and it was expected that the Post Office would take this over. But in the matter, when push came to shove, the Post Office backed away from it and Congress backed away from it, largely because they didn't want to interfere with private enterprise.

Nineteenth century America believed firmly in private enterprise and the postal monopoly was restrained from entering telegraph service, from entering even the postal savings banks until 1910, as I pointed out. In the 1890's, they did begin the pneumatic tube service here in Washington, but that didn't develop very much.

The point is, I think, that it was Congress feeling that the Post Office must not interfere with private enterprise and all along there were those people, even some on the Post Office Committee in the 1890's, who believed that the postal monopoly—even this should be given up. But most people agreed the Post Office could do what it did and leave the matter there.

Mr. ROUSTON. How do you see the events of the past in the Post Office, now the Postal Service, expanding into what many would consider private enterprises, private activities? How do you see those as relating to the desire on the part of the Postal Service today to enter into the electronic mail delivery field?

Mr. **Fuller.** Well, from the time of electronics there's always been that movement of people—some of the postal authorities—to enter into these and I'm not sure in the old days when it was a service-oriented organization, my feeling as I was writing my book that that would have been good.

I think the whole thing has changed since 1970 when the Post Office is no longer oriented basically toward service but basically toward being self-sustaining. I think the difference in those two principles changed the whole picture of the mail service in the United States. So I would question whether or not the Post Office under the present arrangement should get into these.

Mr. **Rouston.** I see. In general, what have been the major innovations in the postal business and have they been developed by the post office or by private enterprise, private competitors?

Mr. **Fuller.** Well, there are a whole list list of innovations. For example, in the early days of the mail you didn't have envelopes, you didn't have stamps. The post office developed these, using as a precedent the British system. They developed and registry service, the money order system, rural mail delivery and urban mail delivery, and this was done, in part, because of the inability of people in the cities to all go to one post office and get their mail and because, in part, there were private carriers carrying the mail from the post office out to the homes. So in that respect, private enterprise did compete.

But in the areas where they developed, for example, a railroad post office, which was a marvel of the age and changed the whole way the post office distributed its mail. Instead of distributing it to distributing centers as it does now, they distributed it on railroad cars as they moved along, and this was a tremendously efficient system. This was developed primarily by the postal service itself and not by any competition of the railroad or by private enterprise and, in fact, one of the great contests throughout the 19th century was the contest between the post office and the railroads overcharging for the service. Government always felt it was getting cheated and the railroads always felt they were getting cheated, and this was one of the continuing problems.

The rural free delivery mail was developed not because of private enterprise but really because of politics. I think it's important to note that as long as the post office was associated with politics—many people think that was a terrible thing, but my analysis was that it was helpful to the postal service because it was very flexible as long as it was related to politics. Politicians have to get their constituents' mail out and they're responsible for it. So in debate after debate throughout the 19th and early 20th century you can see them listening very well to the demands of their people, and that situation no longer seems to remain.

Mr. **Rouston.** We should note that one of your primary interests is rural America and you have dealt with rural America and its history extensively in areas other than postal issues.

But to what extent has rural postal service been accomplished by contracts with private individuals as opposed to direct postal service?

Mr. **Fuller.** You mean historically?

Mr. **Rouston.** Yes.

Mr. **Fuller.** Well, there have been no great amount to of private business. The only connection there—by contract service, I suppose you mean the star route mail carriers who contracted, but they still came under postal regulations and you can't hardly say that's private enterprise, but there were thousands and thousands of star route mail carriers and mail routes.

In the late 19th century, what that meant was that anybody who contracted to carry the mail had an asterisk placed over their name or alongside the route and that was a start and it meant that they could conduct carrier mail by any vehicle they wanted to. It wasn't designed to carry it by railroad or stagecoach. They could even walk with the bag over their shoulder if they wanted to. But these were all contracted with the postal service.

There was some scandal attached to this. Everybody knows the famous star route frauds of the 1880's. And there were—which I wasn't able to mention in my survey—a number of investigations of the postal service, a number of indications of fraud and this kind of thing.

But on the whole, when you consider the vast undertaking I don't think you can argue that postal service was terribly corrupt.

Mr. ROUSTON. We need to differentiate between the private express statute and rural mail delivery. Are the two inseparably joined or are there other ways of providing rural delivery or could there have been other ways of providing rural delivery other than through a private express statute?

Mr. FULLER. By that, you're asking could private industry have done this for rural America? Is that your question?

Mr. ROUSTON. Could they have?

Mr. FULLER. Yes, they could have, but I don't think they would do it because it probably wouldn't have been profitable. This is the great argument and it still goes on today, that the profitable mails are in the city and it's profitable to carry letters where you have a large number of them and first class mail, of course, and the history of the post office indicates certainly that rural service never paid its way. This is why Congressmen from rural areas were always concerned that if urban areas were given a certain postal service they had to be given a quid pro quo, something to see to it that their service wasn't diminished. This began back in 1851 and it continued right up through the changing of the postal law in 1970. In fact, the opposition to the change in 1970 to a postal corporation came really from the rural areas because they got no guarantee really—at least they didn't feel that they had a guarantee—that service was going to be continued in rural America, because if you're going to the self-sustaining policy where the post office has to make itself pay its way, they're going to look first of all at the places where it doesn't pay, and that is rural America. And though the corporation statute says that the rural mail will not be diminished, rural Congressmen and Senators didn't believe it and in fact many complain that it has been in fact reduced.

So to answer your question briefly, I don't think private enterprise would have done it.

Mr. ROUSTON. Could the Congress have structured—and you have mentioned the politicization of the Postal Service and how at least during a certain time it was beneficial for the delivery of mail because it required the attention of Congress to provide these services to their constituents in rural areas—could the Congress have adopted another approach, say, of subsidizing rural delivery from general revenue instead of placing the burden of this subsidy on other general mail handlers?

Mr. **Fuller**. Well, in fact, they did. The Post Office appropriation bill always came out with in fact subsidies from the Congress because the postal never paid its way. The only class of mail that paid its way is the first-class postage and yet here were all these routes being extended and every year there was a postal deficit, and this came out of the appropriations from Congress. So if one were to say what should be done if the postal monopoly were to be ended, some guarantee would have to be given, I think, to rural America to make sure that they would get their service. It might be that the Post Office could continue to handle the rural mail and let the others go, but that would have to be an appropriations because it would never pay for its way.

Mr. **Rouston**. Could you give us just a more concise history of the uniform first-class postage role and some of the specific reasons why it came about and if this law has a future?

Mr. **Fuller**. Well, as I said in the prepared statement, it's rooted in history, and the old idea of controlling communication of earlier governments. This is the origin of the postal monopoly. But in the United States we weren't so much concerned about control of communication as making enough money to expand the service which was the primary policy at the very beginning. That's why you have a monopoly over the first-class mail service. And then, tradition, I think. We get in the habit of doing things a certain way and this had been done during the colonial period and the Postal Service had been monopolized, so I think the two basic things then were to raise money to expand the service and to adjust to custom.

Mr. **Rouston**. Article I, Section VIII of the Constitution gives the Congress the power to establish post offices and post roads. Now through your testimony we're aware of what has developed since then.

Is there any historical factor which would prevent us from changing for the future the way we handle the delivery of the mail?

Mr. **Fuller**. Well, no, I don't think so. We're bound by custom and all we have to do is break the custom I suppose.

Mr. **Rouston**. And are you of the opinion that what we have, the method of delivering mail that we've had in the past and what we have in the present, do you think that that will be sufficient for the future or do you think that we do indeed need to restructure the delivery of mail?

Mr. **Fuller**. Yes, I think we need to restructure it and I think we need to reconsider the whole thing.

Mr. **Rouston**. All right. Professor Fuller, on behalf of Senator Symms and the subcommittee, I again want to thank you for your very fine testimony and your kindness in being here with us this morning. There may be an occasion for us to submit other questions to you and if we might do that we would appreciate it.

Mr. **Fuller**. Sure.

Mr. **Rouston**. Again, thank you very much. Until the Senator returns, we will have a recess.

[A brief recess was taken.]

Senator **Symms** [presiding]. The subcommittee will come back to order and we're very happy to have Janet Steiger who is Chairman of the Postal Rate Commission. Mrs. Steiger will discuss the jurisdiction and regulatory power of the Postal Rate Commission as established in the Postal Reorganization Act.

Janet, welcome to the subcommittee. It's nice to see you again and we appreciate the hard work that you're doing in your new position.

STATEMENT OF HON. JANET D. STEIGER, CHAIRMAN, POSTAL RATE COMMISSION

Mrs. **Steiger**. Senator, it's a great pleasure for me to here this morning. I'm happy to respond to the request to testify. We compliment you and your subcommittee on the evaluation of the postal system. Such things are always in the public interest. I noticed that my new colleague, John Crutcher from Kansas, is in the audience this morning, and I cannot resist complimenting the Reagan administration on the quality of the recent appointments to the Postal Rate Commission, and Commissioner Folsom, from Delaware, who is not with us this morning.

Senator **Symms**. Welcome to the subcommittee, John.

Mrs. **Steiger**. Thank you.

Senator **Symms**. Thank you.

Mrs. **Steiger**. We will be as brief as we can. We realize that you're on a very tight schedule with your floor duties as well as the issues before you this morning.

Let me say that we could not find in the current literature an explanation of the Commission's role vis-a-vis the private express statutes and we thought that it might add at least to the historical data. The Commission will review for you this morning the Commission statement with regard to the jurisdiction over the private express statutes.

The decision to which I refer was issued in 1976. The Commission has had no occasion to revisit that issue since, and there have been, of course, no legislative changes in the private express area that would alter the relationships we described in the document. We'll discuss that in more detail later, but I think it's sufficient to say that it essentially holds that we will exercise only what might be called "ancillary jurisdiction."

Senator, if I do not address some of the topics mentioned in your letter of invitation, it is not because I think that those topics are unimportant, but because others, like Professor Fuller, could do a far better job of informing you, for example, on the legal and political history of the statutes. I think it might be more helpful if I focus on the context in which the private express issue has arisen in Commission proceedings. I will summarize the 1976 policy statement here and would be happy to supply the full text for the record, if you wish.

Senator **Symms**. Without objection, your entire policy statement will be a part of our record.

Mrs. **Steiger**. Thank you.

COMMISSION JURISDICTION OVER PRIVATE EXPRESS REGULATIONS

At the outset, it should be noted that the Commission's policy statement was issued in the context of a complaint by private parties relating to a Postal Service ruling—later modified by the Service—that was perceived by interested parties as an administrative expansion of the statutes. As such, the statement that the Commission issued may not bear directly on questions relating to repeal or restriction of the letter mail monopoly, but I mention it because I think the episode illustrates the review mechanisms provide in existing postal law.

In brief, the Commission's 1976 policy statement comprehensively reviewed the Postal Reorganization Act of 1970 and found only a very limited role for the Commission vis-a-vis the private express statutes. The Commission found no express statutory grant of jurisdiction over the private express statutes and determined that general jurisdiction was not implied by Congress assignment to the Commission of ratemaking and classification functions. The Commission also concluded that the determination of whether a particular type of matter is a "letter" for purposes of the private express statutes has no bearing on whether the same matter belongs to any particular class of mail order the Commission's mail classification system.

While this distinction is important and the statement goes into some detail on it, its relevance to your inquiry is somewhat limited, and I think it is adequate to note that the Commission concluded that its classification authority is not a predicate for jurisdiction over the Postal Service's regulations implementing the private express statutes. This means, for example, that a finding that some types of advertising matter, normally mailed third class, are considered "letters" under the private express statutes, would not change the character of that mail for classification purposes. It is still third-class mail.

While the Commission found that it had no express or implied general jurisdiction over the private express statutes, it did find that ancillary jurisdiction might exist where such jurisdiction would be required for the effective execution of our statutory duties. For instance, suppose the Service were to ask for a new classification and private parties were to object saying that the Service uses the letter mail monopoly to increase its market share of other types of mail and that the new classification of service would facilitate this practice. In this situation, the Commission might have to rule on whether the Postal Service had so used the letter monopoly; section 3622(b)(4) of the act, the provision requiring us to assess the effect on competition, would mandate that inquiry.

The Commission also found that, aside from the legal issue, there were sound practical and policy considerations which argued against our jurisdiction over the private express statutes. First, the Postal Service uses Administrative Procedure Act rulemaking procedures when changing its private express regulations and all parties interested can participate in that process. Second, Postal Service regulations provide hearing procedures whereby aggrieved parties may contest adverse private express rulings. And, unlike proceedings before the Commission, those Postal Service rulings are appealable directly to the courts. Essentially, the Commission observed that not only were these remedies available to correct private express errors, but most importantly, "in the end, any determination to expand or contract the postal monopoly must be predicated upon a legislative, not an administrative, decision."

THE E-COM PROCEEDING

Let me briefly review the issue of private express as it did arise in the E-COM proceeding which you've already heard much of today. Although the initial filing of the Postal Service's E-COM proposal, and the extensive hearings held on it, predate my service on the Commission, the Commission's decision does reflect disposition of a private express issue and I think perhaps it's worthy of comment here.

It is my understanding that the parties involved initially expressed a great deal of concern that the Service's entry into the electronic message market would provide it with an opportunity to expand the letter mail monopoly. This concern persisted despite the testimony of a Postal Service witness that the Postal Service had no intention of applying the private express statutes to the electronic transmission of messages or the production of hard copy from electronic transmission. In fact, some parties urged the Commission to defer a decision on the E-COM proposal until the Postal Service made a definitive Statement on the applicability of the private express statutes to electronic message services.

The Commission observed at that time that a probable source of the concern was the Postal Service's December 1978 proposal effectively narrowing the scope of the "telegram exemption," which dates back to 1936, to the Postal Service's asserted monopoly over delivery of hard copy associated with electronic messages. The stated purpose of the proposed change was to make it clear that hard copy associated with electronic message services other than traditional telegrams would not qualify for this exemption.

I believe the Federal Communications Commission advised the Postal Service that its proposed regulation was in violation of the Communications Act of 1934. The FCC interpreted the law as giving it jurisdiction over all forms of electronic communication, including incidental physical delivery. Ultimately, the Service decided not to pursue the change in the definition of "telegram."

The Postal Service also has exempted "time-sensitive" or "extremely urgent" mail from the private express statutes. It is not evident that this exemption has any particular effect on electronic mail, particularly in view of the two-day delivery standard that was proposed as part of E-COM.

The Commission's opinion on E-COM found no need to make a specific finding as to the comparative effect of what amounted to two alternative E-COM proposals on the prospective applications of the statutes. However, the Commission did state that if the Postal Service were not to offer an end-to-end electronic mail service, a possible rationale for applying the private express statutes to privately offered end-to-end electronic mail service in the future might be eliminated.

REPEAL OF THE STATUTORY MONOPOLY

Let me turn briefly to the issue of the repeal of the statutory monopoly. I would suggest that actually creating effective competition in the delivery of letter mail probably requires more than simply repealing sections in the postal and criminal codes that deal with the statutory monopoly. First, I suspect, must come the policy determination regarding the basic framework of competition that is desired. One competitive model, for example, might join with the removal of the legal bar to competition a mandate that competitors entering the market undertake to supply the same sort of service that the Postal Service offers. Presumably this would involve universality of service, a degree of rate uniformity and other rules relating to quality, type, availability and price (or pricing policy) of letter mail.

Other models of competition exist—for example, one that simply allows entrepreneurs to determine for themselves the type of service they think will succeed and the market they want to serve. I suggest that if this model is used, additional questions arise with regard to the effectiveness of competition that arises in the letter-mail area.

Professor Fuller has suggested and I think it is the conventional wisdom that competition for letter-mail pursuant to this laissez-faire model that I've just described would take place largely in metropolitan areas where the market is especially dense. If this is the case, then it is likely the Postal Service would retain a de facto "monopoly" over letter traffic in less dense areas and over longer distances. The existence of this defacto monopoly implies a range of problems regarding internal subsidization of competitive traffic by monopoly traffic, including continuance of the uniform-rate concept.

There are also institutional questions of some interest which we noted in our comments on your bill before the Post Office and Civil Service Committee. I'll be brief and just touch on them.

What regulatory scheme, if any, will govern the competitive letter delivery companies? Will they be subject to jurisdiction of the ICC? Will those operating interstate be subject to State regulation?

If the Postal Service and private concerns are to engage in full-scale competition, should there be a change in the apparent immunity of the Postal Service to suit under the antitrust laws?

Whether the specialized labor-relations arrangements governing the Postal Service, and in particular the prohibition against strikes, will have an effect on the ability of the Service and private firms to compete on an even basis.

How would competition affect the policy of the 1970 act with respect to the maintenance of service to rural areas on a basis comparable to that rendered elsewhere in the country with no rate penalty? Should the goal of maximizing rural service continue to be favored? If so, should subsidization or requirements that competitors also render service in less-settled areas or some other mechanism be included in the competitive model?

COST OF SERVICE TO SMALL TOWNS

The last point mentioned leads me to the question that you did raise regarding the cost of smalltown mail service, and I must tell you I venture into this subject with some trepidation. Let me explain why.

The Commission's existing date collection and analysis system is not set up to identify cost of service on a State, city, or smalltown basis. The financial information we obtain and review is geared toward the analysis of costs and revenues by class and subclass of mail. Our objective is to recommend rates for first-class mail, second-class mail, and so forth, without reference to any distinction to urban-rural or small town-large city. Consequently, the figures we develop in the context of our ratemaking function generally, cannot accurately serve other purposes where different assumptions and objectives control.

Let me point to some technical aspects of the last rate case. They're rather technical but I think they illustrate why a simple dollars-and-cents answer to the question you have asked is difficult to come by.

In brief, in the last omnibus rate filing by the Postal Service the Commission identified 20 functional cost segments, and that essentially represents an accounting system for identifying and accumulating all Postal Service costs for purposes that are generally related to ratemaking. None of the segments accumulates smalltown Postal Service costs per se; cost segment I, for example, represents the salaries and related costs of having postmasters throughout the Nation. All activities performed by the employees are included, whether they involve executive direction at large post offices or administration and customer service at smaller ones. There just isn't any differential made in the cost segments.

In similar fashion, cost segment XIV represents transportation services purchased by the Service from airlines, railroads, and the like. Again, the accumulated transportation costs represent postal service throughout the entire network and the total reflects standards in the existing system that require transporting the mail nationwide, whether or not the origin or destination of that mail is a large town, a small town, a rural or an urban area.

I might point out also that the cost segment system does not account for the public service appropriations the Postal Reorganization Act provided for reimbursement to the Postal Service for costs incurred by it—in the words of the Reorganization Act—"in supplying a maximum degree of effective and regular postal service to all parts of the nation."

What I think is apparent from these examples is that the existence of the letter mail monopoly and first-class rate uniformity to a large extent do affect the design of the existing postal costing and ratemaking system. In fact, the closest the cost segment system comes to identifying with any particularity some of the costs that arguably could be considered an aspect of "small town" postal service is in cost segment X, which represents salaries and related expenses of rural carriers. Rural carrier activities, for the purposes of this cost segment, are basically those involving the collection and delivery of mail and the provision of certain retail services along the rural route.

The Postal Service's 1980 fiscal year revenue and cost analysis and cost segments and components reports—which we just refer to as the RCA, shows total rural carrier costs of approximately $919 million for 1980. This figure represents costs of compensation and certain benefits such as group life insurance, health benefits and the Service's contribution to the retirement fund, but it does not include workers' compensation benefits or contributions to the retirement fund deficit. In addition, according to the RCA, the 1980 fiscal year cost for the equipment maintenance allowance was approximately $194 million. This represents compensation to rural carriers for the use of personal vehicles on the route.

I must emphasize that these figures do not represent the costs of providing these services from a public policy point of view nor do they attempt to compare these costs with city carrier delivery costs. Instead, they simply reflect the judgment of Postal Service accountants, economists, and other experts on a viable system for managing our ratemaking task.

MAIL SERVICE IN ALASKA

Before closing, let me touch briefly on the question you asked about the special mail problems in Alaska. A review of our formal citizen complaint docket indicates we have not been asked to address any specific postal problem in Alaska. But it is my unerstanding, Senator, that Senator Stevens, who understands these problems profoundly, called upon the GAO for a report in the early 1970's and that report identified several problems particular to Alaska, including its geography, the climate, relatively sparse population and high postal employee turnover. While some of the report's statistics might be outdated, its discussion does provide a reasonable starting point on that issue.

This concludes my statement this morning. We've been happy to be here, Senator.

[The 1976 policy statement referred to follows:]

UNITED STATES OF AMERICA
POSTAL RATE COMMISSION
WASHINGTON, D.C. 20268

Before Commissioners: Chairman DuPont, Vice Chairman Villarreal, Commissioners Miltich, O'Doherty and Saponaro

Regulations Implementing)
Private Express Statutes) Docket No. RM76-4

STATEMENT OF GENERAL POLICY DETERMINING LACK OF JURISDICTION AND ORDER TERMINATING PROCEEDING

(Issued August 6, 1976)

I. INTRODUCTION AND BACKGROUND

This statement of policy is being promulgated pursuant to § 3603 of the Postal Reorganization Act of 1970[1] (hereinafter referred to as the Act) in order to resolve the question of the Postal Rate Commission's (Commission) jurisdiction over the United States Postal Service's (Postal Service or Service) regulations implementing the Private Express Statutes.[2] The question of Commission jurisdiction over the Postal Service's administration of the Private Express Statutes (PES) derives its origins from two earlier proceedings, Docket Nos. MC73-1 and C75-1. In each of these proceedings,

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[1] 39 U.S.C. §§ 101 *et seq.* (1970), Pub. L. No. 91-375, 84 Stat. 719, *et seq.*

By this statement of policy we are publishing an exposition of our views on the questions covered, in the manner contemplated by 5 U.S.C. §553(b). The issuance of such statements is the recognized procedure for this purpose. *See* the general discussion of policy statements in Pacific Gas & Electric Co. v. FPC, 506 F.2d 33, 38 (D.C. Cir., 1974).

[2] The Private Express Statutes are found in 18 U.S.C. §§ 1693-99, 1724; 39 U.S.C. §§ 601-06 (1970).

United Parcel Service (UPS) brought this question before the Commission advocating that the Commission assert jurisdiction over the Postal Service's regulations implementing the PES.

Our purpose in initiating this proceeding can best be understood in the context of the recent history of the PES. Section 7 of the Act[1/] directed the Board of Governors of the Postal Service to submit to Congress and the President a report and recommendation for the modernization of the PES and the regulations and administrative practices pertinent thereto. Responding to this directive, on June 29, 1973, the Board transmitted its report, "The Private Express Statutes and Their Administration" which recommended that no statutory changes be made in the PES. The Board found, however, that the then existing regulations and administrative practices should be improved, principally through the issuance of a revised and coherent set of regulations. See Governors' Report, p. 13 and Appendix G thereto. Accordingly, on July 2, 1973, the Postal Service published a notice of proposed rulemaking, which included new regulations designed to conform to this recommendation,[2/] and concurrently invited

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[1/] Pub. L. No. 91-375, 84 Stat. 783.

[2/] 38 Fed. Reg. 17512 (July 2, 1973).

the submission by interested parties of "data, views, or arguments" pertinent to the proposed regulations.[1]

On October 9, 1973, before the regulations became effective,[2] UPS filed a memorandum[3] in the then pending classification proceedings, Docket No. MC73-1, taking exception to the Postal Service's revised regulations which, according to UPS, expanded the scope of the Postal Service's monopoly beyond its statutory limits. UPS contended that these regulations were invalid since they had been promulgated without compliance with §§ 3623 and 3624 of the Act, i.e., a hearing on the record and the submission of a recommended decision to the Board of Governors. UPS, and other parties who urged assertion of Commission jurisdiction over the PES regulations in MC73-1, contended that these regulations would have a substantial effect on the scope and practical application of PES and thus impinge upon Commission regulatory functions. The thrust of their arguments focused upon the theory that our power to interpret the word "letter" as used in 39 U.S.C. § 3623(d)--which speaks of "letters sealed against inspection"--

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1/ Id. at 17513.

2/ The final rules underwent substantial revisions and were not effected until 1975. 39 C.F.R. Parts 310, 320 (1975).

3/ Memorandum of United Parcel Service on the Commission's Jurisdiction over Special Services, Interim Changes in the Classification Schedule, and Regulations Implementing the Private Express Statutes, October 9, 1973.

carries with it the authority to define letter as used in the context of the PES, 39 U.S.C. § 601. In addition, it was asserted that our ratemaking and classification powers under §§ 3622 and 3623 could be impaired and/or circumvented by the Postal Service's ability to unilaterally expand or contract the scope of its monopoly by altering the definition of the word "letter" as used in § 601 of title 39.

On April 29, 1975, in Docket No. MC73-1, we accepted certification of the following question:

> Does the Postal Rate Commission have jurisdiction over the Postal Service's regulations which purport to implement the Private Express Statutes?

At that time we noted that we had not reached a decision as to whether MC73-1 was an appropriate forum for resolving this question.

On May 5, 1975, UPS filed a complaint in a separate proceeding, pursuant to 39 U.S.C. § 3662, again placing in issue the jurisdictional question (Docket No. C75-1). In that proceeding--as in MC73-1--UPS controverted the Postal Service's power to unilaterally promulgate, without Commission review, rules affecting the scope of the postal monopoly. Specifically, UPS asserted that the Postal Service was without power to unilaterally issue regulations in the form of an opinion[1] construing certain common carrier tariffs and supplements as "letters" and thus subject to the Postal Service's monopoly emanating from the PES. UPS sought various relief, including the exercise of Commission jurisdiction over Postal Service regulations implementing the PES and a Commission order directing the Postal Service to stay enforcement of its opinion pertaining to these tariffs and supplements pending resolution of the jurisdictional issue. On May 29, 1975, the Postal Service dealt with the issue raised by UPS in a further interpretation[2] of its regulations which had the effect of substantially modifying its previous opinion and rendering the complaint moot. Following the Service's opinion on reconsideration, we dismissed the complaint before us without prejudice and without granting any affirmative relief.[3] However, in terminating Docket C75-1, we took cognizance of the broader jurisdictional issue raised in Docket No. C75-1 which had not yet been resolved in Docket No. MC73-1. Thus motivated by the fact that this jurisdictional issue cut across the boundaries of our various regulatory functions, including our ratemaking and mail classification powers, we instituted these proceedings, through a "Notice of inquiry,"soliciting the comments of interested parties.[4]

1/ See Postal Service letter opinion dated January 23, 1975, addressed to Chief Postal Inspector, a copy of which is attached to UPS' complaint in Docket No. C75-1.

2/ 40 Fed. Reg. 23295 (May 29, 1975).

3/ Commission Order No. 93, October 22, 1975, dismissing complaint without prejudice.

4/ 40 Fed. Reg. 50329 (October 29, 1975).

Our review of the relevant statutes and case law, and of the comments filed in this proceeding, leads us to adopt the following policies with regard to the Postal Service's regulations administering the Private Express Statutes:

1. The Commission will assert no general jurisdiction to review PES regulations as such; but

2. Under certain special circumstances (not now specifically apparent) the principles of ancillary jurisdiction may support, or require, consideration of PES matters as an adjunct to the exercise of our express statutory functions.

In arriving at these policy conclusions we have analyzed each of our main statutory functions, in the manner described below.

II. THE COMMISSION LACKS GENERAL JURISDICTION OVER THE POSTAL SERVICE'S REGULATIONS IMPLEMENTING THE PRIVATE EXPRESS STATUTES

A. Introduction.

At the outset, we note that there are three ways in which jurisdiction over the PES regulations might arise:

1. Congress might have specifically granted to the Commission the authority to review the Service's regulations;

2. Even absent an express grant of jurisdiction, the scheme of the Act might necessarily imply that the Commission was expected and intended to exercise a general power of regulatory supervision over the Service's administration of its monopoly; or

3. The jurisdiction to review the Service's PES regulations--if it exists at all--would be ancillary. It would arise only where its exercise was imperative in order to permit the Commission effectively to execute its expressly delegated or clearly implied functions.

No specific grant of jurisdiction over the PES is conferred upon the Commission by the Act as we read it, nor has any party pointed to such a delegation. No judicial interpretation has declared that such a delegation exists. Nor can we find anything in the purpose or structure of the Act as a whole which fairly implies that Congress intended us to exercise a general supervisory power over the PES. As we stated in our Notice of Inquiry, there seems little doubt that the Postal Service has primary, if not exclusive, administrative responsibility for the enforcement of its monopoly.

On the other hand, we must be prepared to take all steps needed to insure the complete execution of those functions Congress has delegated to us. It is for that reason that we find that in some concrete cases--not now before us--we may be not only empowered but required to exercise ancillary jurisdiction over the PES regulations.[1/]

[1/] The doctrine that an agency may exercise powers not explicitly delegated, to the extent such exercise is reasonably ancillary to the effective execution of specifically-assigned duties, is discussed fully in Davis, Administrative Law Treatise (1970 Supp.), § 2.00-2. It is sufficient to say here [footnote continued]

A review of the comments filed in this proceeding indicates that most of the discussion has focused upon the possible application of 39 U.S.C. § 3623 (classification) and § 3661 (changes in service) to private express questions. Nevertheless, § 3622 (rates) and § 3662 (complaints) have also been put forward as potential bases for Commission involvement in questions regarding the PES. We believe that all four of the statutory provisions containing grants of jurisdiction to this Commission should be examined in connection with this question. We therefore discuss them in the order in which they appear in the Act. With regard to each of the four sections mentioned above, we have inquired into whether a grant--either express or necessarily implied--of general jurisdiction over the PES regulations can be found. In no case have we found such a grant to exist.

B. Jurisdiction does not lie under 39 U.S.C. § 3622.

In fixing rates under § 3622 of the Act, the Commission first determines the costs which can (and therefore must)

[footnote continued]

that the principle of permitting such extensions of jurisdiction where the agency must exercise the additional authority in order to carry out its normal functions is well established, and does not depend on Congress' knowledge (or lack of it), at the time of enactment, of the subject matter on which ancillary jurisdiction is exercised. See United States v. Midwest Video Corp., 406 U.S. 649, 660-61 (1972). We would emphasize that such ancillary jurisdiction as we may be called upon to exercise in a future case is not in any sense "created" by the statements made herein. It is clear from the court cases in which the ancillary jurisdiction doctrine has been developed that such jurisdiction is always available to an agency which finds its exercise necessary in a particular fact situation, regardless of whether the agency has previously published a statement of its views on the question.

be attributed on the basis of causation to the various classes of mail. The remaining, institutional costs must then be assigned to the several classes. In our past rate decisions we have adopted, and fully explained, our method of doing so, which involves the analysis of demand for the various classes of service and the distribution of institutional costs accordingly.[1] We have determined the relative elasticity of the classes of mail, as indicated by the record, and where a class exhibited a relatively low elasticity of demand we have assigned to it a relatively higher share of institutional costs.

Associated Third Class Mail Users (ATCMU) argues that if the Commission does not assume jurisdiction to review the PES regulations, the relationships involved in this demand analysis will become distorted as the result of Postal Service amendments to the scope of the monopoly. The result of this, in ATCMU's opinion, would be to undermine the validity of our rate determinations. ATCMU states:[2]

1/ Opinion and Recommended Decision of the Postal Rate Commission, Docket No. R74-1, pp. 1-623 et seq.; Opinion and Recommended Decision of the Postal Rate Commission, Docket No. R76-1, pp. 118-23, 130 et seq. (unofficial print).

2/ See Comments of ATCMU, p. 4.

> . . . For example, if the Postal Service through its regulations were unilaterally to free a significant portion of first class mail from the Private Express restrictions, use of that class, and concomitantly Postal Service revenues, might well drop substantially. Any Commission classification or rate decision based upon prior revenue would then be of little value. In fact, any conclusions that the Commission might make in rate proceedings regarding the elasticity of the mail classes could conceivably be rendered widely inaccurate were the Postal Service to revise the regulations on monopoly mail.

Abstractly considered, ATCMU's argument has some plausibility. However, we believe it overlooks the proper limits of the ratemaking process, as well as the other remedies available to a party who believes that the postal monopoly is being wrongly extended or contracted.

The end-product of a § 3622 rate proceeding is not a determination of the elasticity of demand for a particular class of mail, but the setting of a rate which complies with the statutory criteria. We do not fix rates (as ATCMU implicitly assumes) for the purpose of preserving a particular market structure. If the Postal Service should alter the structure of its monopoly, and thereby change the elasticity of demand for, or the total usage of, a certain class of mail, the Commission would be apprised of this fact by the evidence in the next rate proceeding and adjust rates accordingly.1/

1/ Such a rate proceeding could be either a general rate case initiated by the Service under § 3622, or a complaint filed by a mailer under § 3662, based on the allegation that in view of the changed relative elasticities of the classes of mail there should be a corresponding revision of the institutional cost assignments and of the resulting rates.

It is not part of the Commission's functions to maintain forever the same relative demand for the different classes of mail service; accordingly, there is no evident reason why the fact that a change in PES regulations may work a change in relative demand elasticities should be viewed as implying a power in the Commission to review Postal Service regulations defining the monopoly.

To the extent that a party contends that an extension or contraction of the monopoly is actually improper (i.e., inconsistent with the letter or spirit of the Private Express Statutes), a remedy is available more directly than through the ratemaking processes of this Commission. As we note below (p. 26), the Postal Service's PES rules are fully subject to the rulemaking provisions of the Administrative Procedure Act. A party aggrieved by the substance of a new regulation may participate in the § 553 rulemaking procedure and then obtain judicial review of the resulting order. Similarly, 5 U.S.C. § 553(e) guarantees the right to petition for issuance, amendment, or repeal of an agency rule, and judicial review is again available. We believe that this is a clearer and more direct remedy than an auxiliary determination made in the context of a rate case under § 3622.

ATCMU appears to harbor some concern that the Postal Service might alter the monopoly in such a way as to cause revenues to "drop substantially." While it is understandable that a mailer might be aggrieved as a result of Postal Service policies regarding the PES which had this effect, it does not appear to us that this possibility requires our conclusion to be changed. In the first place, the historic experience of the Postal Service, and the Post Office Department before it, indicates that the monopoly is regarded as a revenue-protection measure.[1] The Post Office Department's official publication Restrictions on Transportation of Letters states, at page ii, that

> . . . The primary purpose of these [Private Express] laws is to safeguard the revenues of the Government derived from the transportation of letters for others by prohibiting competition with the Post Office Department in the carriage of letters by persons seeking to engage in the delivery of letters for compensation.

Apart from the long-continued practice of the postal system to treat the monopoly as a revenue protection measure, any suspension of the Private Express Statutes by Postal Service rule, such as ATCMU appears to hypothesize, would be subject to a "public interest" standard. See 39 U.S.C. § 601(b). This standard would, of course, be judicially enforceable.

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[1] United States Post Office Department, Restrictions on Transportation of Letters, P.O.D. Publication 111 (5th ed., July 1967), p. ii (hereinafter "P.O.D. Publication 111"). Reprinted as Appendix B, Part II to "The Private Express Statutes and their Administration" (June 29, 1973). The President's Commission on Postal Organization (Kappel Commission) expressed a similar conclusion. See Towards Postal Excellence (June, 1968), p. 129.

Accordingly, we find, first, that we lack jurisdiction over the PES regulations due to the absence of express statutory authority in § 3622. We also find that the parties hereto have not shown that such general jurisdiction is implied by Congress' assignment to the Commission of the ratemaking function.

C. The Commission's Mail Classification Functions Under § 3623 Do Not Require Exercise of Jurisdiction Over the Service's Private Express Regulations.

Those parties who addressed this jurisdictional issue in the context of our mail classification functions, § 3623 of the Act, focus their arguments on whether the Commission's power to define the word "letter" as used in § 3623(d) of the Act--which speaks of "letters sealed against inspection"--carries with it the concomitant authority to define the same word as used in that portion of the PES, § 601 of title 39 which states that "A letter may be carried outside the mails when . . ."certain requirements are satisfied.1/

1/ Section 601(b) of title 39 which grants the Postal Service the power to "suspend the operation of any part of this section" has been interpreted by the Postal Service as a means to contract or expand the scope of its postal monopoly. While certain parties to these proceedings have offered comments bearing on this suspension power, we are herein limiting ourselves to a discussion of the question of our power to review Postal Service regulations. That is the basic issue before us. Moreover, given our essentially negative jurisdictional conclusions respecting review of the Service's rules, it would be pointless for us to enter upon an abstract discussion of whether the suspension power exists at all.

Proponents of the Commission's assertion of jurisdiction over the Postal Service's regulations implementing the PES have contended in these proceedings that in order for the Commission to carry out its statutory duties under § 3623 of the Act--that is, to approve and recommend changes in the mail classification schedule--the Commission is compelled to define the word "letter" as used in § 3623.[1/] They further argue that, applying the rule of statutory construction that when identical words are used in different provisions of the same statute--the words have the same meaning in both sections, the definition of "letter" adopted by the Commission pursuant to its responsibilities under § 3623 would also delineate the extent of the Postal Service's monopoly over letter mail.

In opposition thereto, other respondents to the Notice of Inquiry contend that reliance upon this rule of statutory construction in these circumstances is misconceived since this rule of construction is applicable only in those instances where the dual usage of the same term related to the same subject or common purpose.[2/] Specifically, they argue that this rule of statutory construction is not applicable herein since the term "letter" as used in § 3623 relates to the object of establishing

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[1/] See Comments of United Parcel Service, pp. 5-7; Comments of Associated Third Class Mail Users, pp. 5-7.

[2/] See Comments of Purolator Services, Inc.; American Retail Federation; and United States Postal Service.

a "fair and equitable classification system" of mail including a class of mail sealed against inspection, whereas the term "letter" as used in the PES relates to an entirely different subject, the Postal Service's administration of the PES, the object of which is the preservation of postal revenues.[1/]

Thus, having determined that this rule of statutory construction is not germane, these respondents maintain that the proper methodology to be employed in defining the term "letter" as used in these two sections of the Act, is by resorting to the statute's legislative history and the historical context in which the terms are used. They cite the Postal Service's long-standing practice of expounding the term in two different senses. The Service's position is exemplified by the following statement appearing in a 1967 Post Office Publication:[2/] "[t]he determination of whether a particular type of matter is a 'letter' for the purposes of The Private Express Statutes has no bearing on the determination of whether the same matter" belongs to any particular class of mail pursuant to the mail classification system currently in effect. With regard to the legislative history of the Act, it is noted that the PES were incorporated without change into the Act.[3/] Thus it is

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[1/] *See* p. 12, *supra*.

[2/] POD Publication 111, Part IID, Permissible Carriage of Letters, § 27, p. 24 (1967).

[3/] Compare title 39, ch. 6, with former title 39, ch. 9, Pub. L. No. 86-682, 74 Stat. 727-28.

asserted that Congress--being cognizant of the pre-existing dichotomy between the interpretation of the term "letter" in these different areas--had by not expressly altering the separate administration of the PES and mail classification statutes and by failing to provide any relevant legislative history in this regard intended to carry forward the pre-existing dichotomy.

We believe that this argument is sound. The rule is that an administrative construction of a statute, or of a statutory term, is presumed correct if Congress--having knowledge of that construction--reenacts the legislation unchanged.[1] In the present case, we think it highly probable that Congress had notice of the Post Office Department's dual construction of the word "letters" at the time it was considering the Postal Reorganization Act. It is quite clear from the statute itself that Congress considered the whole question of the Private Express Statutes during its deliberations on postal reorganization. Section 7 of the Act (84 Stat. 783) contains a legislative finding that the entire structure of the mail monopoly needed further study and a direction to the newly-established Postal Service to conduct such an investigation. The reports of the Kappel

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[1] 2A Sutherland, Statutory Construction § 49.09 (4th ed., 1973), citing numerous cases. The Court of Appeals for the District of Columbia Circuit has held that where the construction has been consistently maintained and can be shown to have come to Congress' attention, reenactment without change "is almost conclusive evidence that the interpretation has congressional approval." Kay v. FCC, 443 F.2d 638, 647 (D.C. Cir. 1970) (footnote omitted). See also Udall v. Tallman, 380 U.S. 1, 16-18 (1965); United States v. Midwest Oil Co., 236 U.S. 459, 472-473 (1915).

Commission and certain of its contractors had discussed the Private Express Statutes at considerable length.[1] Congress examined the Kappel report and relied on its findings. The Senate Committee stated[2] that:

> Background information available to the Committee has been voluminous and helpful: from the views and findings appearing in the four-volume report of the President's Commission on Postal Organization to the expert testimony recorded in the printed hearings . . . .

The Kappel Commission report was also cited as a source by the House Committee. See H. R. Rep. No. 91-1104, 91st Cong., 2d Sess. 6 (1970). This case is not one, therefore, in which Congress reenacted a long and complicated statute containing certain matters which, so far as appears, were not reexamined at all during the legislative process. The indications are, instead, that Congress concerned itself in some detail with the Postal monopoly.[3]

We thus find that Congress was aware of the substance of Post Office Department interpretation and administration of the PES. Indeed, we find it difficult to suppose that the most authoritative single document on the subject--POD

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[1] See, e.g., Towards Postal Excellence, Annex, vol. II, "Marketing," p. 6-5. The discussion there stresses both the definitional significance of the word "letters" and the fact that the monopoly created by the Private Express Statutes cuts across the boundaries of mail classes.

[2] S. Rep. No. 91-912, 91st Cong., 2d Sess. 2 (1970).

[3] Indeed, the Chairman of the House Post Office and Civil Service Committee stated in debate that the existing private express laws were being retained. See 116 Cong. Rec. 27596 (1970).

Publication No. 111--could have been ignored by Congress. This volume (whose discussion of this issue was partly paraphrased in the Kappel Commission Annex already cited) was an official Post Office publication, issued by its General Counsel, containing both the text of the Private Express Statutes and the Post Office's interpretations thereof. It was sold to the public by the Superintendent of Documents for use as a guide to mailers and others desiring to know their rights and obligations under the Private Express Statutes. POD Publication No. 111 states quite explicitly in § 27, at pp. 24-25, that "letters" has one meaning in the PES context and another in connection with classification:

> The determination whether a particular type of matter is a "letter" for purposes of The Private Express Statutes has no bearing on the determination of whether the same matter is first-, second-, third-, or fourth- (parcel post) class matter when it is carried by the postal service. The classification of matter in the mails is governed by statutes entirely different from The Private Express Statutes. . . . It follows that some matters which are "letters" for purposes of The Private Express Statutes may be entitled to transmission through the mails at the rate of postage applicable to third- or fourth-class matter, while other such "letters" must bear postage at the first-class rate. [Footnotes omitted.]

We conclude, therefore, that when Congress in 1970 left the word "letters," without qualification or explanation, in both Chapter 6 and § 3623 of the new title 39, it must have intended to preserve the dual senses in which the Post Office Department had used the term. Such Congressional sanction of the definitional dichotomy would preclude us from ruling that the term must bear the same meaning in both contexts. Accordingly, we reject the contention that § 3623(d), by employing the word "letters" requires us to assume jurisdiction over the PES regulations.

Our finding that the definitional attributes of the word "letter" in these two sections of the Act are independent of each other resolves the § 3623 jurisdicitonal question. Since no party has demonstrated, nor do we perceive, any other basis of implementing jurisdiction over the PES through § 3623, we find that our classification authority does not provide a predicate for jurisdiction over the Postal Service's regulations implementing the PES. In this regard we believe it unlikely that any action taken by the Postal Service affecting the scope of the PES will bear on any mail classification system established pursuant to § 3623. For example, a finding that some types of advertising matter, normally mailed third class, are considered "letters" under PES, does not change the character of that mail for classification purposes. It is still third-class mail.

It is also argued that § 7 of the Act, which requires the Postal Service to submit to Congress and the President, within two years, certain recommendations concerning the PES, its administration, and the regulations under it, provides a basis for Commission jurisdiction to review the Service's PES regulations.[1] The argument is that, by demanding this report from the Service, Congress showed that it "did not intend the Postal Service itself to review the Private Express Statutes or the implementing regulations."[2]

We believe that § 7 of the Act implies no more than that Congress anticipated turning its own attention to the problems of the mail monopoly at some future time, and wished to be fully informed on the subject before doing so. It may be that Congress in the future will revise the PES, and perhaps limit or even abolish the Service's power to interpret them by rule. None of this, however, suggests any role for the Postal Rate Commission in reviewing the existing activities of the Service with regard to the PES.[3] Even if we assume that ATCMU is correct in stating that Congress did not intend the Service to have sole control of the PES, that fact would not create jurisdiction in us.[1]

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[1] *See* Comments of ATCMU, p. 3.

[2] *Id*.

[3] The Council on Wage and Price Stability (Council) filed an extensive argument recommending that a symposium be convened in order to study the impact of the PES upon mail services and to ascertain whether--as the Council suggests--allowing competition "would result in significant benefits to the economy and to the mail user." In this analysis the Council addresses various factors bearing upon the propriety of maintaining the PES as they presently exist, such as cream skimming, cross-subsidization, and the effects of the monopoly on postal rates. The issue of whether the postal monopoly should be maintained as it presently exists is clearly a legislative determination beyond our jurisdiction; thus, in our opinion it would be more fruitful for the Council to propound its arguments before Congress.

D. The Commission Has No General Private Express Jurisdiction Under 39 U.S.C. § 3661

Several of the comments received by the Commission on the question of PES jurisdiction have been addressed to the scope of our authority under § 3661 of title 39. These may be divided into two categories: analyses which squarely confront the jurisdictional issue,[2] and critiques of the efficacy of any action the Commission might take, using the procedural mechanism set forth in § 3661, should it undertake to resolve PES questions under that section.[3]

We believe that, considered from the standpoint of the purpose Congress sought to achieve by enacting § 3661, these two questions are interrelated. That is to say, both the limitation of § 3661 jurisdiction to changes "in the nature of postal services" and the mechanism by which § 3661 cases are initiated by the Postal Service and terminated by the issuance of an advisory opinion (rather than a recommended decision) indicate that the essential purpose of the provision is to contribute to the efficient management of a postal system providing useful and adequate service--not to settle disputes over the legality of Postal Service actions. We said in our recent advisory opinion concerning the Retail Analysis Program[1] that

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[1] Moreover, we would be most reluctant--as a matter of statutory construction--to assume that Congress embodied a permanent grant of jurisdiction in a temporary, transitional section of the Postal Reorganization Act. (Section 7 of the Act is not part of Title 39, U.S.C., as codified.)

[2] See Comments of the Assistant General Counsel (Litigation), Purolator Services, Inc., United Parcel Service and the United States Postal Service.

> . . . we regard § 3661 as having two principal functions in the scheme of postal reorganization. It is designed both (1) to provide an independent, expert critique of Postal Service programs before they are put into practice, and (2) to allow the public to contribute views, objections, and insights to the planning and execution of service changes.

As we likewise pointed out in that opinion, this is why the procedures created by § 3661 so heavily emphasize prospective evaluation of Postal Service programs. Advice of the type that section contemplates is clearly most valuable when rendered before the program is put into practice.[2]

Moreover, the decision to make § 3661 essentially an aid to (or in proper cases a check upon) postal management explains Congress' considered determination[3] that the Commission should issue only advisory opinions in service change cases.

We are thus led to the conclusion that this provision is neither designed for, nor particularly well adapted to, the kind of decision here at issue. While, as the history of the Retail Analysis Program shows, an aggrieved mailer may be able to trigger a § 3661 proceeding by invoking the aid of the courts to compel the Service to request an advisory opinion, an outside party cannot initiate such a proceeding directly. The resulting decision cannot be regarded as binding on the Service. While it is possible to characterize the statute as one which provides an ineffective remedy,[1] we believe that closer analysis indicates that § 3661 was not intended to be primarily a remedial provision.

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[1] Retail Analysis Program for Facilities Deployment, Docket No. N75-1 (April 22, 1976), pp. 65-66 (mimeo print).

[2] *Id*., p. 66.

[3] Congress had before it an alternative proposal that Commission decisions be binding for a certain period. *See* H. R. Rep. No. 91-1363, 91st Cong., 2d Sess. 87 (1970).

This does not mean that matters involving the PES regulations could never arise in a § 3661 case. It is conceivable that situations could arise where a service change in the statutory sense is so intimately connected with a change in the scope of the mail monopoly that the two would have to be considered together in order to arrive at a meaningful advisory opinion. In such situations we might well be required to examine the proposed change in the PES rules as well as the planned changed in service. What is significant, however, is that such circumstances would arise only where the PES matter was ancillary to a proposed change in postal services. The PES issue would not itself constitute or imply a service change independently requiring an exercise of our jurisdiction.

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[1] See Comments of Associated Third Class Mail Users, p. 8.

Since much of the discussion herein has focused on the nature and effectiveness of remedies available under § 3661, we believe it important to point out that a substantial range of remedies against a possible abuse of the PES is available outside the processes of this Commission. Parts 310 and 320 of title 39, C.F.R., are the regulations under which the statutorily critical term "letter" is defined and suspensions of the Private Express Statutes are effectuated. Prior to any such amendment, the Service must conduct a rulemaking proceeding under the provisions of the Administrative Procedure Act, requiring public notice of the proposed change and the solicitation of comments.[1/] Any rule adopted would then be subject to judicial review under 5 U.S.C. §§ 701-706, with the possibility of a stay of the effective date thereof pending appeal.

Nor would parties be constrained to wait until the Postal Service proposed an amendment in order to advocate positions with regard to the PES regulations. The APA procedures for rulemaking, which 39 C.F.R. § 310.7 adopts as a whole, include a provision [5 U.S.C. § 553(e)] that

> Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

[1/] *See* C.F.R. § 310.7; 5 U.S.C. § 553. In fact, such a rulemaking has been held. *See* pp. 2-3, *supra*.

Thus an interested person can initiate the rulemaking process, and obtain judicial review of the Service's disposition of the petition.

The existence of these remedies--which unlike the procedures of § 3661 are clearly intended to resolve litigious controversy rather than to assist management--means that our construction of that section does not leave the public without access to administrative and judicial forums competent to decide private express questions. Indeed, any remedy we might try to fashion under § 3661 would be duplicative of relief already obtainable in other ways. We conclude, therefore, that assertion of jurisdiction to review PES regulations under § 3661 would advance no policy of the Act, and would contravene what we believe to be the preferable construction of that section's language and purpose. Other remedies are available elsewhere, so that no party need be deprived of his day in court on these issues. Our consideration of PES regulations in § 3661 proceedings, accordingly, will be limited to those cases where such consideration is unavoidably necessary to an adequate consideration of a change in the nature of postal services for the purpose of advising the Service thereon.

E. The Role of 39 U.S.C. § 3662.

Under § 3662 of title 39, any interested person may file a complaint with the Commission alleging that "the Postal Service is charging rates which do not conform to the policies" of title 39, or that he is "not receiving postal service in accordance with the policies of this title." The broad scope of these provisions means that it is neither easy nor particularly useful to speculate as to the fact situations that might come before us under § 3662.

Accordingly, we shall not now declare any particular class of complaints involving administration of the PES to be unacceptable under that section. The principles and policies discussed elsewhere in this order, however, will govern in § 3662 cases. Persons contemplating filing complaints raising PES issues should therefore consider the factual situations they intend to raise in light of our discussion herein. We anticipate that unless a complainant clearly established (1) that our regulatory functions could not be executed absent assertion of jurisdiction to review the PES regulations, and, (2) that the applicable policies of the Act could not be carried out without Commission directives concerning such regulations,[1/] such complaints would be dismissed for want of jurisdiction.

III. ADMINISTRATION AND OVERSIGHT OF PRIVATE EXPRESS MATTERS IN OTHER FORUMS

Aside from the legal issue, there are sound practical and policy considerations which persuade us against the exercise of jurisdiction over PES matters.

1/ In analyzing whether execution of the policies of the Act requires such Commission directives, parties should pay particular attention to the availability of remedies under 39 C.F.R. § 310.7.

In addition to the Postal Service rulemaking procedures referred to previously (pp. 26-27, supra), the Postal Service regulations provide hearing procedures whereby aggrieved parties may contest adverse PES rulings [39 C.F.R. Part 959 (1975)]. These cases are heard, in the first instance, by independent hearing officers, and all the procedural requirements of due process are provided. Furthermore, unlike proceedings before this Commission, such Postal Service rulings are appealable directly to the courts pursuant to 5 U.S.C. § 702.

Finally, we believe that Congress is the ultimate forum for parties seeking relief from allegedly adverse PES determinations.1/ In the end, any determination to expand or contract the postal monopoly must be predicated upon a legislative, not an administrative decision. In this connection, we note that two House subcommittees having responsibility for postal matters recently reviewed the PES and concluded that no changes were necessary.2/

1/ In this regard, the Comments of the Council on Wage and Price Stability relative to the repeal of the PES are more appropriately directed to the Congress.

2/ See Joint Report of the Subcommittee on Postal Facilities, Mail, and Labor Management and the Subcommittee on Postal Service of the Committee on Post Office and Civil Service, House of Representatives, 93d Cong., 2d Sess. Summary of Observations and Recommendations on United States Postal Service Activities During First Session of Ninety-Third Congress 52 (Comm. Print No. 93-17, 1974). The Report also stated that "some of the exclusions and suspensions included in the proposed Postal Service regulations are more properly the subject of legislation." Id.

IV. CONCLUSION

We thus determine, as a matter of Commission policy, that we will not assert a general jurisdiction over the PES regulations.[1] Should it be demonstrated (under a state of facts we do not now attempt to hypothesize) that exercise of ancillary jurisdiction in that area is required for the effective execution of our statutory duties, it would be our policy to exercise such derivative jurisdiction. The scope of such exercise would be strictly delimited by the fact situation present in the individual case. The necessity of invoking ancillary jurisdiction would have to be demonstrated _in each case_ by the proponent of Commission action.

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[1] In our Notice of Inquiry in this proceeding, we posed a number of specific questions to which we requested the parties to address themselves. These questions were not, of course, intended as a rigid specification of issues in the proceeding; rather, they were designed to elicit information which the parties might be able to contribute to our deliberations. Accordingly we do not find it necessary to discuss each of them specifically.

To the extent the questions can usefully be answered by way of explanation of our jurisdictional findings, we have done so in the discussion above. Otherwise, we believe that an attempt to provide an answer would, in view of our jurisdictional findings, be an abstract exercise of no particular utility either to the Commission or to the parties.

The Commission orders:

(A) The foregoing statement is adopted as the Commission's formal expression of its general policy respecting its functions under the Postal Reorganization Act in relation to the Private Express Statutes and their administration and constitutes an answer to the question certified to the Commission by the Presiding Officer in Docket No. MC73-1.

(B) The foregoing statement of general policy shall be observed and in effect from and after the date of its issuance.

(C) The proceedings in Docket RM76-4 are hereby terminated.

By the Commission. Commissioner Saponaro concurring, filed
a separate statement, attached hereto.

(S E A L)

James R. Lindsay

James R. Lindsay
Secretary

Commissioner Saponaro, concurring:

I concur with the preceding statement of general policy. With respect to the § 3622 discussion at pp. 8-13, _supra_, I would, however, reserve my views expressed in my dissent at pp. 33-44 in Docket No. R76-1, concerning the use of demand analysis in distributing institutional costs.

Senator Symms. Thank you very, very much for a very excellent statement. I can see that you've gone to a lot of work to give us some very helpful information.

The Postal Service stated in an answer to the subcommittee's questionnaire—and the reason I'm asking this is you might even want to give us a little more information—the answer was, attempting to determine whether any particular segment of postal operations is generating revenues greater or lower than its expenditures is likely to be misleading because each segment is but one indistinguishable part of the universal service from which all other segments derive benefits.

There are post offices which, viewed in isolation, appear to generate revenues which are lower than costs; however, it's not possible to say that these post offices are unprofitable.

Now I think that's an important statement and it's fundamentally important because, if true, it would insulate the Postal Service from any meaningful cost analysis.

Now is there any other reasonable means of deciding whether various segments of the postal operation are self-sustaining or not? We have one universal transportation system so that at any given time it's possible that some routes or carriers are making money and some are losing. Would you want to comment and maybe elaborate somewhat on that statement?

Mrs. Steiger. I think the first thing that comes to mind is if you're talking about a truly self-sustaining service, of course, that's the philetelic division and that actually makes a profit.

Senator Symms. Well, let me ask you a question. You propose in your statement that you think—and we're just speaking hypothetically—if the monopoly were repeated, that the private companies would tend to take the city business and leave the country business to the post office. What would happen hypothetically—and that's what you said in your statement——

Mrs. Steiger. Well, I'm quoting conventional economic wisdom.

Senator Symms. Right. That's normally what I hear.

Mrs. Steiger. I don't think any of us know the answer to that, Senator.

Senator Symms. I just wonder what would happen if the Congress wanted to try to allow people to carry mail only in rural areas privately. Would this then. in accordance with your statement about a universal system, mean that you wouldn't have the feed into the central points and more it might cost the cities business. I don't know.

Mrs. Steiger. Well, I think the basic answer to your question is we've never tried to maintain service to rural and small areas without the monopoly. We don't know what would happen were the Postal Service to be demonopolized.

I think it's fair to say that unless some plan were devised to guarantee certain levels of service, these services would be looked at very closely on a businesslike basis as to whether they should or should not be continued to the level that they are now in existence. That I think is true.

Senator Symms. What criteria do you use if you're going to close, say, a small rural post office? Are you actually ever able to close one or do the politicians that I'm a part of keep the heat on so you can't do it?

Mrs. Steiger. In 1976 when the Postal Reorganization Act was amended, it did provide that the Postal Service ought to set up assessment procedures before closing a small post office. It provided the role for the Postal Rate Commission simply to review the record of the Postal Service's assessment. Now if we find the Postal Service has acted arbitrarily or capriciously, we can remand the decision to them. The Postal Rate Commission has no authority to modify the decision of the Postal Service to close a small post office.

In my tenure on the Commission it is clear that they have become more and more conscious I think very efficiently of the effect on a community and they do attempt to assess this thoroughly before they close. We have had no occasion to remand a case to them since I've been on the Commission and I think they do close small post offices. They attempt to close them first of all when there is a vacancy obviously or when it is clear that the service has changed to the point where it is easier handled by rural delivery and I will add, however, that the effect on the community and the reflecting concern of the Congress is obviously a factor in whether they can close. You remember the budget provision went down to——

Senator Symms. If the Congress were to apply a direct subsidy to support a rural postal ssytem, do you have any ideas on how much it would cost?

Mrs. Steiger. I think the basic answer is what I've given you. We have never had any occasion nor have we ever been asked to differentiate between rural, suburban, and urban cost of service. Our whole system is designed to allocate costs efficiently and fairly and equitably to classes of mail.

Such a study could no doubt be made. It would have to make certain assumptions and those assumptions would have to be put up front, the main one being what your definition of rural is, and you cannot believe how difficult that definition becomes, Senator. But with those assumptions, this could be assessed to some degree and then reassessed and criticized by anybody who didn't agree with your assumptions.

Senator Symms. Some people have suggested the idea that we should establish a trust fund and put a tax on document carriers, public and private—not a tax but an excise tax, a user's fee, etc. Do you think this would be more desirable than funding it through the general appropriation process as we now do?

Mrs. Steiger. I have never heard that question asked. I haven't thought about it. I would say historically the position of Congress has been that if subsidy is to be granted, it should be granted from the Public Treasury on the basis that these are public service goals. I have never considered the thought of a trust fund.

Senator Symms. What changes, if any, should be made in the charter of the Commission in order to allow it to do its job more effectively?

Mrs. Steiger. Senator, we've asked for two revisions in the 1970 Act that we feel would indeed not only expedite our procedings but allow us to better serve the interest of the mailing community as well as the Postal Service. We would like, number one, to have subpena authority over the Postal Service. We think this would cut down a heck of a lot of paper flow and motion practice that goes on as we try to ascertain information that we feel is necessary to determining the costs so we can set rates.

We would also like final decision authority. At the moment the statute calls for the ability of the governors to modify unanimously a Commission-recommended decision. We think this is an unnecessary third layer of review, time consuming, and too much to expect of a part-time body, to assess once a month the very complex rate structures that have been devised and costed by an expert body.

Those are the two changes we would like to see in the statute.

Senator SYMMS. Well, thank you very much. I have some other questions that I would like to ask you but we may submit those by mail. We have another vote on so I thank you again for your interest in making this hearing a success and we will probably send some questions to you in writing so we can complete our hearing record. There are some questions that I wanted to ask you for the record. Thank you very much, Janet. It's nice to see you.

Mrs. STEIGER. It's nice to see you.

Senator SYMMS. Now I would like to call Roy Fisher, senior vice president of NLT Computer Services, and Joe Coates, president of J. F. Coates, Inc., a policy analyst who will testify with regard to the future of mail delivery, especially telecommunications.

Mr. Fisher, I'd like to have you go right ahead and start. I understand your statement takes about 6 minutes; is that correct?

Mr. FISHER. About that.

Senator SYMMS. Why don't you go right ahead and start and maybe we can get yours done before I have to excuse myself to go vote.

STATEMENT OF R. STEPHEN FISHER ON BEHALF OF THE ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS, INC., ARLINGTON, VA.

Mr. FISHER. My name is Roy Fisher. I am senior vice president and general manager of the Direct Response Division of NLT Computer Services Corp. NLT is a longstanding member of the Association of Data Processing Service Organizations, Inc. or ADAPSO.

I wish to thank the subcommittee for this opportunity to appear before you today and to express the views of ADAPSO's member companies and NLT on the provision of electronic message services by the United States Postal Service. We are gratified that this prestigious subcommittee is investigating a matter of strategic importance to the computer services industry.

As introduction, NLT Services is a full computer service provider headquartered in Nashville, Tenn., with revenues exceeding $40 million a year and over 600 employees and branch locations in Wisconsin, Pennsylvania, Florida, and the District of Columbia. The Direct Response Division of NLT provides consultation, computer recordkeeping, mail production and lettershop services for a wide variety of nonprofit, direct mail fund raisers.

NLT is one of the few companies in the Nation that offers a complete range of computer services and production services for direct mail providers. As a 16-year veteran in the computer services industry, I have served in various sales, marketing and management capacities with several of the major participants in this area. As a vice president of sales for the Compu-Serve Corporation, I was directly responsible for a product known as Info-Plex which was an electronic mail service.

Virtually the entire ADAPSO membership of over 500 private sector computer service firms has a stake in the provision of electronic message services, either as direct providers of these services or as providers of underlying software or services, including conversion of electronic messages into hard copy for subsequent physical delivery. Of serious concern to this industry is the improper and possibly anti-competitive entry of the United States Postal Service, known as USPS, into the electronic message services business.

The USPS is vigorously pursuing entry into this business through two principal vehicles, the Electronic Message Services System, EMSS, and the controversial Electronic Computer-Originated Mail, E-COM, program.

Senator SYMMS. Mr. Fisher, if you would please suspend, I'll excuse myself and the subcommittee will be in recess for about 6 minutes and then I'll be back.

[A brief recess was taken.]

Senator SYMMS. The subcommittee will come back to order and we will continue with Mr. Fisher's statement. Please go right ahead, Mr. Fisher.

Mr. FISHER. The USPS is vigorously pursuing entry into this business through two principal vehicles, the Electronic Message Services System known as EMSS and the controversial Electronic Computer-Originated Mail known as the E-COM program. It is the position of ADAPSO that the USPS entry is unnecessary and improper and should be halted, and that the current manner of USPS entry will likely result in unfair and decreased competition in the electronic message services marketplace.

In the limited amount of the available time to me today, I would like to touch briefly upon four points which are addressed more fully in ADAPSO's Position Paper on Government Provision of Electronic Message Services. This position paper, recently approved by unanimous vote of the ADAPSO board of directors, has been included in my prepared statement to the subcommittee and I ask that it be included in the record of these hearings.

Senator SYMMS. The entire prepared statement will be part of our record.

Mr. FISHER. Thank you. I should add that events since the adoption of this position paper by the ADAPSO board have not changed, but confirmed, the facts and conclusions set out in the paper. I also ask for inclusion in the record of a perceptive article entitled "ECOM: Unfair Competition With Private Enterprise," appearing in the February 1982, edition of ZIP magazine and also included in my prepared statement.

The first point in my discussion today deals with the extent of USPS involvement in the electronic message services business. The E-COM and EMSS projects undertaken by the Postal Service represent only the beginning of major USPS activity in the electronic message marketplace.

EMSS is a multimedia program whereby computer tapes, discs, hard copy, and direct computer input, are transmitted to designated USPS offices by means of contracted carrier services. Subsequently, the USPS converts the output into printed hard copy and physically delivers the hard copy through its local distribution facilities. Plans call for EMSS implementation, at the overall cost of $18.9 million in 1978 dollars, according to the GAO, over the next 10 to 15 years. There will be 15 EMSS operational sites by 1985 and 1995 is the target date for full EMSS implementation at 87 sites nationwide.

The E-COM program approved by the Postal Rate Commission involves the interconnection of the transmission facilities of certified E-COM carriers with 25 Serving Post Offices, or SPO's. Messages prepared by the customer in standard formats are transmitted by the E-COM carrier to a designated SPO with message input accomplished jointly by the customer and carrier. Message correction, conversion, printing, and enveloping and delivery of the hard copy message are performed by Postal Service personnel and equipment at the SPO itself.

The evolution of the EMSS and E-COM ventures reveal the systematic and, thus far, successful effort by the Postal Rate Commission and the USPS to enable the USPS to compete with the private sector in the electronic message services marketplace and to enhance its market penetration. Already, in the E-COM venture alone, both the PRC and the USPS have agreed that the Postal Service may become a provider of basic transmission services between customers and postal facilities, and between SPOs, and may also be a reseller of such services. If these or other electronic message services offered by the USPS entail significant embedded data processing capabilities, where the customer or SPO is able to store and retrieve messages and to manipulate the content of these messages via software and hardware functions, then USPS competition with the private sector is compounded.

The USPS has already been granted authority by the PRC to engage in substantial data processing services at each regional SPO, services traditionally provided by private industry. Postal Service conversion of electronic messages into hard copy represents an additional source of Government competition with the private sector. Moreover, the USPS has received authorization to have 100-percent back-up data processing capability for its SPO functions. This "back-up" provides yet another means for the USPS to compete with independent computer service vendors.

The Postal Service has attempted to disavow any interest in publicly offering basic transmission services, computer services and end-to-end (Generation III) electronic message services. The evolution of E-COM in particular seriously undermines this protestation. Moreover, Postal Service executives have repeatedly indicated that the USPS will provide these services unless prevented.

USPS intentions and the evolution of E-COM and EMSS indicate that the Postal Service is positioning itself to compete with the private sector in the electronic message services marketplace on a scale far larger than that evident in the current E-COM program. Unless prohibited, the USPS will become entrenched in the electronic message services business, a result that is contrary to this Nation's fundamental commitment to rely on the private sector for provisions of goods and services.

This brings me to my second point, that postal service competition with the private sector in the electronic message service marketplace is unnecessary and improper.

The electronic message services business, although an infant and emerging field, is already highly competitive and dynamic. This area is characterized by intense private sector research and development efforts, vigorous innovation and robust marketing practices. There is every indication that the private sector is highly capable of and will continue providing electronic message services in an adequate and efficient manner responsive to existing and eventual consumer demand.

All of the major computer networks in the United States already offer electronic message services utilizing the intercity transmission facilities of AT&T. An increasingly large number of timesharing vendors and software firms offer electronic message systems. These systems can be used on a remote and interactive timesharing basis, may be ordered for intra-corporate installation as in-house software packages, or purchased as in-house turnkey systems.

Senator SYMMS. Mr. Fisher, can you please try to summarize your statement. It will be reviewed very carefully by everyone. I apologize for asking you to do that. I know you worked very hard on it, but I do know the schedule on the floor and we're going to have another vote. I'm trying very hard to get three more witnesses before the subcommittee before the vote.

Mr. FISHER. I'll try to summarize.

The third point is, despite the limitations urged by ADAPSO, there is a proper role for the Postal Service in future delivery of the mail. That particular role in the electronic message service business would be to capitalize on the innovations of the private sector in the field. That is to say, they would actually deliver hard copy output to recipients who do not have terminal devices in their homes or places of business. The Postal Service may provide the space and operations for personnel to enable those telecommunications and computer services firms offering electronic message services to input messages electronically to a destination Post Office. This role would stimulate the Postal Service's traditional business in its labor force and letter carriers. The Postal Service would then be a catalyst in encouraging the development of flexible and innovative electronic message services furnished by the private sector.

The fourth and final point today involves the anticompetitive nature of the contemplated USPS activity in the electronic message service business. Serious threats to competition may arise should the USPS be permitted to enter the electronic message services business with no restraints on the manner of its entry.

Cross subsidization by the USPS may well result in significant economic harm including predatory or below-cost pricing that drives independent competitors out of the market and discouragement of market entry by private entrepreneurs who cannot compete with organizations having governmentally guaranteed revenues. Cross subsidy may also result in unearned, excessive monopoly revenues derived from traditional postal customers.

Notwithstanding these concerns, it appears that E-COM will be subsidized by other USPS services. The actual costs of the current E-COM system are significantly greater than the cost estimates relied upon by the Postal Rate Commission when it established current E-COM rates and fees in its Recommended Decision. Initial estimates of the total capital investment for the E-COM system came to $7.4 million. The January 16, 1981 contract between the Postal Service and RCA for the E-COM system provides for an expenditure of at least $38.6 million. Despite this dramatic difference the current E-COM rates and fees are those established over 2 years ago when estimated capital investment totaled less than one-fifth of current expenditures and when the first class postage was 15 cents per ounce, which now is 20 cents.

Another competitive problem of unrestricted USPS entry into the electronic message services marketplace involves the unique, monopoly hard-copy distribution facilities of the Postal Service. Should the USPS be permitted to become a communications carrier or a resale carrier in competition with the private sector, it will have tremendous incentive to deny access to its local distribution facilities.

It is ADAPSO's position that if the USPS is to be permitted to engage in the competitive electronic message services marketplace, it should compete fairly without benefit of cross-subsidy derived from its regulated status. This may be accomplished by requiring the Postal Service to conduct its entire competitive activities through a subsidiary with stringent accounting and structural separation requirements designed to detect and nullify opportunities for cross-subsidization and other competitive abuses.

In closing, Senator, let me say that the adverse competitive effects of unrestricted USPS diversification into the electronic message services business threaten an efficient and responsive marketplace. This is especially unfortunate because entry by the Postal Service into this marketplace is unnecessary and improper in the first place. Thank you.

[The prepared statement of Mr. Fisher, together with the position paper and article referred to, follows:]

PREPARED STATEMENT OF R. STEPHEN FISHER

Mr. Chairman and Members of the Subcommittee.

My name is R. Stephen Fisher. I am Senior Vice President and General Manager of the Direct Response Division of NLT Computer Services Corporation. NLT is a longstanding member of the Association of Data Processing Service Organizations, Inc., or ADAPSO as the Association is more commonly known in the computer services industry which it represents.

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Virtually the entire ADAPSO membership of over 500 private sector computer service firms has a stake in the provision of electronic message services, either as direct providers of these services or as providers of underlying software or services including conversion of electronic messages into hard copy for subsequent physical delivery. Of serious concern to this industry is the improper and possibly anticompetitive entry of the United States Postal Service (USPS) into the electronic message services business.

The USPS is vigorously pursuing entry into this business through two principal vehicles, the Electronic Message Services System (EMSS) and the controversial Electronic Computer-Originated Mail (E-COM) program. It is the position of ADAPSO that USPS entry is unnecessary and improper and should be halted, and that the current manner of USPS entry will likely result in unfair and decreased competition in the electronic message services marketplace.

In the limited amount of time available to me today, I would like to touch briefly upon four points addressed more fully in ADAPSO's Position Paper on Government Provision of Electronic Message Services. This Position Paper, recently approved by unanimous vote of the ADAPSO Board of Directors, has been included in my written statement to the Subcommittee and I ask that it be included in the record of these hearings. I should add that events since the adoption of this Position Paper by the ADAPSO Board have not changed, but confirmed, the facts and conclusions set out in the Paper. I also ask for inclusion in the record of a perceptive article entitled "ECOM: Unfair Competition with Private Enterprise," appearing in the February, 1982 edition of ZIP magazine and also included in my written statement.

The first point in my discussion today deals with the extent of USPS involvement in the electronic message services business. The E-COM and EMSS projects undertaken by the Postal Service represent only the beginning of major USPS activity in the electronic message marketplace.

EMSS is a multimedia program whereby computer tapes, discs, hard copy and direct computer input, are transmitted to designated USPS offices by means of contracted carrier services. Subsequently, the USPS converts the output into printed hard copy and physically delivers the hard copy through its local distribution facilities. Plans call for EMSS implementation (at the overall cost of $18.9 million in 1978 dollars, according to the GAO) over the next ten to fifteen years. There will be 15 EMSS operational sites by 1985 and 1995 is the target date for full EMSS implementation at 87 sites nationwide.

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The evolution of the EMSS and E-COM ventures reveal the systematic and, thus far, successful effort by the Postal Rate Commission (PRC) and the USPS to enable the USPS to compete with the private sector in the electronic message services marketplace and to enhance its market penetration. Already, in the E-COM venture alone, both the PRC and the USPS have agreed that the Postal Service may become a provider of basic transmission services between customers and postal facilities, and between SPO's, and may be a reseller of such services. If these or other electronic message services offered by the USPS entail significant embedded data processing capabilities, where the customer or SPO is able to store and retrieve messages and to manipulate the content of these messages via software and hardware functions, then USPS competition with the private sector is compounded.

The USPS has already been granted authority by the PRC to engage in substantial data processing services at each regional SPO, services traditionally provided by private industry. Postal Service conversion of electronic messages into hard copy represents an additional source of government competition with the private sector. Moreover, the USPS has received authorization to have 100 percent back-up data processing capability for its SPO functions. This "back-up" provides yet another means for the USPS to compete with independent computer service vendors.

The Postal Service has attempted to disavow any interest in publicly offering basic transmission services, computer services and end-to-end (Generation III) electronic message services. The evolution of E-COM, in particular, seriously undermines this protestation. Moreover, Postal Service executives have repeatedly indicated that the USPS will provide these services unless prevented.

USPS intentions and the evolution of E-COM and EMSS indicate that the Postal Service is positioning itself to compete with the private sector in the electronic message services marketplace on a scale far larger than that evident in the current E-COM program. Unless prohibited, the USPS will become entrenched in the electronic message services business, a result that is contrary to this nation's fundamental commitment to rely on the private sector for provisions of goods and services.

And this brings me to my second point, that postal service competition with the private sector in the electronic message service marketplace is unnecessary and improper.

The electronic message services business, although an infant and emerging field, is already highly competitive and dynamic. This area is characterized by intense private sector research and development efforts, vigorous innovation and robust marketing practices. There is every indication that the private sector is highly capable of and will continue providing electronic message services in an adequate and efficient manner responsive to existing and eventual consumer demand.

All of the major computer networks in the United States already offer electronic message services utilitizing the intercity transmission facilities of AT&T. An increasingly large number of timesharing vendors and software firms offer electronic message systems. These systems can be used on a remote and interactive timesharing basis, may be ordered for intra-corporate installation as in-house software packages, or purchased as in-house turnkey systems.

The vendor of integrated office systems is also active in the electronic message marketplace, providing electronic message systems as an available function in communicating word processors and turnkey systems. In addition, a large number of major corporations have their own in-house, store-and-forward computer-based message systems for inter-office, administrative purposes.

The electronic message services marketplace specifically and the computer services and communications marketplaces generally are dynamic, competitive and innovative. Given the track record of the computer services and communications industries, this sector of the nation's economy is perhaps the least likely to warrant government enterprise. As I have stated, the private sector has given every indication that it is able to and will serve the electronic message service marketplace in an efficient and desirable manner. Despite this, the USPS, a government-owned and regulated monopolist, is preparing for large-scale entry in the electronic message services business.

ADAPSO opposes Postal Service competition with the private sector in provision of electronic message services to the public. Such competition is simply unnecessary and would disrupt, if not eliminate, the competitive marketplace forces that foster efficient allocation of resources, the highest quality for the lowest price, innovation and free market entry. USPS competition in this marketplace is therefore improper; it flies in the face of the long-held principle, embodied in OMB Circulars A-76 and A-121, that government ought not to compete with the private sector. Moreover, USPS diversification into the electronic message services business will involve the USPS in a technology-intensive service which falls outside the postal monopoly and to which the USPS can profess but limited expertise.

Accordingly, ADAPSO opposes USPS provision or resale of Generation III or end-to-end message services, USPS provision or resale of Generations I and II services including E-COM and EMSS, and USPS provision or resale of post office-to-post office transmission services. ADAPSO believes that the Postal Service should rely on the private sector for provision of data processing and conversion services. Additionally, ADAPSO opposes the entirely inappropriate extension of the Private Express Statutes so as to bring within the postal monopoly end-to-end electronic message services, the electronic transmission portions of Generations I and II message services or any electronic message service involving any component of physical delivery of hard copy information.

My third point today is that, despite the limitations urged by ADAPSO, there is a proper role for the Postal Service in the future delivery of mail.

First, the Postal Service would do well to remain attentive to its traditional role of receiving hard copy and delivering it to the addressee. There is increasing need for the USPS to concentrate its resources on its traditional role. Postmaster General Bolger, in October 5, 1981 hearings before the House Subcommittee on Government Information and Individual Rights, testified that the volume of "hard copy mail" will grow for many years and that electronic message services will not supplant postal services.

Second, the USPS could play a major role in the electronic message services business by capitalizing on the innovations of the private sector in this field. Generations I and II electronic message services require a capability to deliver hard copy output to recipients who do not have terminal devices in their homes or places of business. The USPS may provide the space and operations personnel to enable those telecommunications and computer services firms offering electronic message services to input messages electronically to a destination post office utilizing a vendor-provided, dedicated or shared, terminal device capable of conversion of electronic messages into hard copy. Having provided the space and personnel necessary to accommodate this input and conversion by the private sector, the USPS would then accomplish physical delivery through its local distribution facility.

This role would stimulate the Postal Service's traditional business and its labor force of letter carriers. The Postal Service would then be a catalyst, encouraging the development of flexible and innovative electronic message services funded and furnished by the private sector.

My fourth and final point today involves the anticompetitive nature of contemplated USPS activity in the electronic message services business.

Serious threats to competition may arise should the USPS be permitted to enter the electronic message services business with no restraints on the manner of its entry. As a government-owned and regulated monopolist engaging in a competitive marketplace, the USPS will have substantial opportunities to subsidize its competitive offerings in the electronic message services market with resources and revenues derived from its letter delivery monopoly or through the Treasury's subsidy of the Postal Service as a whole.

Cross-subsidization by the USPS may well result in significant economic harm including predatory or below-cost pricing that drives independent competitors out of the market, and discouragement of market entry by private entreprenuers who cannot compete with organizations having governmentally guaranteed revenues. Cross-subsidy may also result in unearned, excessive monopoly revenues derived from traditional postal customers. The effect of all this in the marketplace is unfair and decreased competition which eliminates those market forces that work to ensure the most efficient and desired electronic message services.

Notwithstanding these concerns, it appears that E-COM will be subsidized by other USPS services. The actual costs of the current E-COM system are significantly greater than the cost estimates relied upon by the Postal Rate Commission when it established current E-COM rates and fees in its Recommended Decisions. Initial estimates of the total capital investment for the E-COM system came to $7.4 million. The January 16, 1981 contract between the Postal Service and RCA for the E-COM system provides for USPS expenditure of at least $38.6 million. Despite this dramatic difference, the current E-COM rates and fees are those established over two years ago when estimated capital investment totaled less than one-fifth of current expenditures and when the first class postage fee was 15¢ per ounce. E-COM rates and fees are not compensatory and will require subsidization from Treasury or other USPS service revenues. It is also clear that, unless compelled, the Postal Service will not take the initiative to adjust its E-COM rates and fees to reflect actual costs and first-class postage.

Another competitive problem of unrestricted USPS entry into the electronic message services marketplace inolves the unique, monopoly hard-copy distribution facilities of the Postal Service. Should the USPS be permitted to become a communications carrier or a resale carrier in competition with the private sector, it will have tremendous incentive to deny access to its local distribution facilities to those competitors which prefer to employ their own arrangements for electronic message transmission rather than using the facilities provided by the Postal Service. Similar competitive hardships will accrue should the USPS deny access to its monopoly distribution facilities to certain firms or provide for access on a discriminatory basis.

In fact, the USPS has propounded discriminatory E-COM telecommunications interconnection arrangements which guarantee one E-COM carrier, AT&T, preferred access arrangements, to the detriment of competing E-COM participants. Similarly, the USPS interconnection arrangements hamper E-COM carriers of small size and those which serve low-volume or remote geographic areas, and place these carriers at competitive disadvantage vis-a-vis AT&T and larger E-COM carriers. These areas, technically complex, are more fully dealt with in ADAPSO's Position Paper. Accordingly, I will not amplify in the limited time I have today.

It is ADAPSO's position that if the USPS is to be permitted to engage in the competitive electronic message services marketplace, it should compete fairly without benefit of cross-subsidy derived from its regulated status. This may be accomplished by requiring the Postal Service to conduct its entire competitive activities through a subsidiary with stringent accounting and structural separation requirements designed to detect and nullify opportunities for cross-subsidization and other competitive abuses. ADAPSO also believes that the USPS should be required to provide interconnection with its monopoly distribution facilities to all able and willing companies, including computer service firms, on a fair and non-discriminatory basis and under the same standards, requirements and charges the USPS imposes on itself for E-COM service.

Unless a competitive USPS structure for entry in the electronic message services business is assured and unless universal and non-discriminatory access to the Postal Service's monopoly distribution facilities is guaranteed, there will be unfair and decreased competition in the electronic message services marketplace. Denial of fair and non-discriminatory access and improper cross-subsidy may well open the entire marketplace to USPS domination as private sector firms are either driven out or deterred from entry.

In closing, Mr. Chairman, let me say that the adverse competitive effects of unrestricted USPS diversification into the electronic message services business threaten an efficient and responsive marketplace. This is especially unfortunate because entry by the Postal Service into this marketplace is unnecessary and improper in the first place.

I respectfully urge the Subcommittee to continue earnestly its investigation into this matter, and to work closely with those Committees of Congress having direct jurisdiction over Postal Service activity in the computer services and communications businesses. ADAPSO stands ready to assist the Subcommittee. We look forward to working with you and the Subcommittee staff in the future.

Again, thank you for this opportunity.

THE
ASSOCIATION
OF DATA
PROCESSING
SERVICE
ORGANIZATIONS

POSITION PAPER

OF THE

ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS, INC.

ON

GOVERNMENT PROVISION OF ELECTRONIC MESSAGE SERVICES

Adopted by the ADAPSO Board of Directors

February 16, 1982

EXECUTIVE SUMMARY

The U.S. Postal Service (USPS) is vigorously pursuing entry into the electronic message business through two principal vehicles, the Electronic Message Services System (EMSS) and the Electronic Computer-Originated Mail (E-COM) program. Virtually the entire ADAPSO membership of private sector firms has a stake in the provision of electronic message services as direct providers of such services or as providers of underlying products and services.

Analysis of the EMSS and the E-COM programs and stated USPS intentions reveal that the Postal Service is preparing to compete with the private sector in the electronic message services marketplace on a scale far larger than that evident in the E-COM program. The USPS has obtained PRC authority to become a provider or reseller of basic transmission services between customers and postal facilities receiving electronic messages ("serving post offices" or SPO's) and between SPO's. These services may entail significant embedded data processing capabilities if the customer or SPO is able to store and retrieve messages and to manipulate the content of messages via hardware or software functions. Already, the USPS has obtained authority to engage in substantial data processing services at SPO's and to provide conversion of electronic messages into hardcopy. The Postal Service, moreover, has indicated it seeks to serve the computer terminal owner. Additionally, the USPS has been permitted to have 100 percent back-up data processing capability for its SPO functions, a proven facility for additional public offering of data processing services.

The private sector has established that it is willing and able to serve the expansive electronic message services marketplace. There has been no demonstration that government enterprise is warranted or desirable in any sense. Accordingly, ADAPSO views Postal Service competition with the private sector in this field as unnecessary and, pursuant to longstanding economic principles embodied in OMB Circulars A-76 and A-121, improper. ADAPSO also opposes the extension of the Private Express Statutes so as to bring within the postal monopoly any electronic message services involving any component of physical delivery of hard copy information. The Postal Service should concentrate on its traditional role of receipt and delivery of hard copy and could enhance that role by providing the space and operations personnel necessary for private sector provision of electronic message services involving hard copy output.

If the Postal Service is permitted to enter the competitive electronic message services business, it is ADAPSO's position that the USPS should be made to compete fairly without benefit of improper cross-subsidy derived from its regulated status. It is apparent that the Postal Service's E-COM program will be subsidized by other

USPS services or with general Treasury funds. Cross-subsidization may be prevented by requiring the Postal Service to conduct its competitive activities through a subsidiary with stringent accounting and structural separation requirements designed to detect and nullify opportunities for cross-subsidization and other competitive abuses.

It is also ADAPSO's position that the USPS should be required to provide interconnection with its monopoly distribution facilities to all able and willing firms on a fair and non-discriminatory basis. It is apparent that the currently operational E-COM program discriminates in favor of one E-COM participant, AT&T, over others and penalizes the small or low-volume E-COM participant, to the detriment of free and fair competition in the electronic message services marketplace.

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INTRODUCTION

The Association of Data Processing Service Organizations (ADAPSO) is the trade association of this nation's computer services industry which generated over $15 billion in revenue in 1980. ADAPSO's members provide a broad range of computer services to the public, including batch data processing, facilities management, remote computing (timesharing), software products, software design, consulting, and support services, and integrated turnkey systems.

Virtually the entire ADAPSO membership of nearly 500 private sector firms has a stake in the provision of electronic message services, either as direct providers of such services, as enhanced service providers pursuant to the Second Computer Inquiry, or as providers of underlying software or services including the conversion of electronic messages into hard copy for subsequent physical delivery. Of serious concern to this industry is the improper and possibly anticompetitive entry of the United States Postal Service into the electronic message business.

The United States Postal Service (USPS) is vigorously pursuing entry into the electronic messages business through two principal vehicles, the Electronic Message Services System (EMSS) and the Electronic Computer-Originated Mail (E-COM) program. It is the position of ADAPSO that such entry is unnecessary and improper and should be halted, and that the manner of USPS entry will likely result in unfair and decreased competition in the electronic message services marketplace.

Before elaborating upon this position, it is necessary to dispel the confusion created by repeated USPS reference to the "electronic mail" phenomenon. There is a fundamental distinction between the USPS governmental postal monopoly over delivery of certain letter mail, as conferred by the Private Express Statutes, and traditional private sector provision of electronic message services and communications services to the public. Application of the term "electronic mail" to the electronic message services business incorrectly suggests that electronic message services are within the domain of the Postal Service. It further serves to blind observors to the fact that the USPS is diversifying into the new business of electronic message service and that the USPS is embarking upon unnecessary entry into a marketplace historically served exclusively, and well, by the private sector.

Appropriately, the USPS Electronic Computer-Originated Mail venture was first proposed in 1977 by a private sector firm, Shell Oil Company. At that time, E-COM was called the "Advanced Communication Service" with no reference to "electronic mail" and all that the term may imply.

I. THE POSTAL SERVICE INTENDS EXTENSIVE INVOLVEMENT IN THE ELECTRONIC MESSAGE SERVICES BUSINESS

The E-COM and EMSS projects undertaken by the Postal Service represent only the beginning of extensive USPS involvement in the electronic message services business. This is graphically revealed by analysis of the programs and of the underlying process leading up to their introduction. Throughout proposal and approval of these ventures, particularly the E-COM program, both the Postal Rate Commission (PRC) and the Postal Service have successfully endeavored to provide the Postal Service with the means to engage extensively in competition with the private sector in provision of electronic message services to the public.

A. The EMSS Program

EMSS, a purported outgrowth of E-COM, entails a multimedia program whereby computers, discs, hard copy and direct computer input, are transmitted to designated USPS offices by means of contracted carrier services. Subsequently, the USPS converts the output into hard copy and physically delivers the hard copy through its local distribution facilities. Plans call for EMSS implementation over the next ten to fifteen years, with 1985 the target date for 15 operational sites and 1995 as the date for full EMSS implementation at 87 sites nationwide. In addition to providing this description of EMSS, the General Accounting Office has estimated that as of May of 1980, the USPS had already spent approximately $18.9 million. The GAO forecasts total EMSS system cost to be approximately $1.8 billion (in 1978 dollars) by the mid-1990's (*see* *Report by the Comptroller General of the United States*, "Implications of Electronic Mail for the Postal Service's Work Force", at 3-4 (February 6, 1981)).

B. The E-COM Program

The USPS E-COM venture, now operational, has a long and convoluted history which nonetheless clearly indicates USPS and PRC intention to pit the USPS in direct competition with the private sector. As stated previously, E-COM was initially conceived by the Shell Oil Company in 1977 as the "Advanced Communication Service" proposal.

Shell sought permission to install its own printers and communications controllers in certain USPS postal facilities. This equipment would have enabled Shell to enter messages into the postal system electronically and directly from its private nationwide communications network. Upon deliberation, the USPS accepted the Shell concept but decided to offer the service to the public generally. Because of its previous joint Mailgram venture with Western Union, the USPS entered into sole-source procurement negotiations with Western Union. The result was the E-COM proposal first presented to the Postal Rate Commission on September 8, 1978.

The USPS filed with the Postal Rate Commission a formal classification request calling for the creation of a new subclass of first class mail, E-COM. Under the USPS proposal, Western Union would have received messages electronically at its facility, for processing and retransmission electronically over its own electronic circuits to 25 Serving Post Offices, or SPO's. Electronic message preparation was to be performed by the sending customer with message input accomplished jointly by the customer and Western Union. Subsequent processing and switching of electronic messages were to be performed by Western Union using its own facilities and equipment. Western Union was also required to install and operate communications controllers at each of the designated SPO's and to maintain billing and accounting records. The Postal Service's role was limited to the installation and operation of the printers and paper-handling equipment at the SPO's, the delivery of the hard copy letters, and customer billing.

In response to the USPS E-COM request, the PRC instituted a proceeding, Docket No. MC78-3, entitled "Electronic Mail Classification Proposal, 1978" (hereafter referred to as the "E-COM Docket"). On December 17, 1979, the PRC issued its Opinion and Recommended Decision in the E-COM Docket. The PRC generally approved the USPS E-COM proposal but ordered a number of significant changes.

The Commission rejected USPS's sole-source arrangement with Western Union and substituted a modified arrangement whereby multiple carriers would interconnect their respective transmission facilities with the SPO's for transmission of electronic messages. In addition, rather than simply installing and operating the printers and paper-handling equipment at the destination SPO, the USPS was permitted to install and operate a computer system in each SPO to perform various data processing functions currently provided by private computer service firms and, under the initial

USPS proposal, functions that were to be performed by Western Union. (Opinion and Recommended Decision, Docket No. MC78-3, at 7-8). Conversion and printing, enveloping and delivery of the hard copy message would be performed by the Postal Service as under the initial proposal.

The USPS did not obtain explicit authorization from the PRC to provide telecommunications links connecting the public to the SPO's nor was it given explicit authority to lease telecommunications lines for transmission of messages between SPO's. Nevertheless, in its Recommended Decision, the PRC stated that "[w]e do not in any way foreclose direct Postal Service provision of customer-to-postal computer communications (assuming any necessary regulatory approvals) should that become desirable in the future" and, further, "[w]e do not, by this decision, foreclose the possibility that the Postal Service may at some time own, lease, or obtain by contract a telecommunications net devoted to electronic mail service." Opinion and Recommended Decision, Docket No. MC78-3, at 7, 8. The ramifications of this latitude are underscored in the PRC Opinion. There the Commission noted that the E-COM plan approved

> does not foreclose a transmission system operated by or for the Postal Service alongside the others. The customer would have the option of choosing his own carrier or of accessing the Postal Service's communications unit--or if the Service had decided to proceed by contract [as a reseller]--the telecommunications contractor. (id. at 34).

The PRC, in its December 17, 1979 decision, limited the E-COM venture to an experimental service of limited duration. The PRC also recommended that the rates and fees for E-COM be

26¢ for a one-page message and 31¢ for a two-page message, figures that were based upon an assumed USPS total capital investment of $7.4 million (id. at 139). The E-COM plan approved also entailed 100 percent back-up data processing capability in the event of primary system disruption (id. at 30-31).

On February 22, 1980, the USPS Board of Governors directed the USPS to seek PRC reconsideration of its Decision. On the whole, the USPS acquiesced in the Commission's Decision but requested that the PRC establish E-COM as a permanent service and not temporary and experimental. The USPS also sought clear and explicit PRC authorization for USPS to become a competing resale communications carrier in the provision of E-COM services to the public where there was "demonstrated need" for its entry into common carriage.

In its April 8, 1980 Opinion and Recommended Decision Upon Reconsideration in the E-COM Docket, the PRC re-emphasized its view that the Postal Service may operate its own telecommunications link as a carrier (id. at 5). The PRC also explicitly authorized the USPS to become a resale communications carrier upon the basis of "demonstrated need" (id. at 6-8), thereby permitting USPS competition with E-COM carriers. The PRC, however, affirmed its decision to authorize the proposed E-COM service as experimental and of limited duration (id. at 19-20).

The USPS Governors, on August 15, 1980, allowed the PRC's Reconsidered Recommended Decision to take effect under protest and directed the USPS to commence E-COM on January 4, 1982. The

USPS protested the PRC Decision to the extent it restricted the E-COM venture to a temporary and experimental service and petitioned the United States Court of Appeals for the District of Columbia to set aside that part of the Decision. The Court did so and remanded the Decision back to the PRC, a step launching over twelve months of dispute between the USPS and the PRC that continues to this day.

On January 16, 1981, the Postal Service contracted with RCA Government Systems Division for an E-COM system whose costs and applications differed significantly from those of the system upon which initial approval of E-COM had been based. This the PRC itself found upon analysis of the public portions of the contract between USPS and RCA. Order of the Postal Rate Commission Suspending Remanded Proceedings, Docket No. MC78-3, at 6, n.1 (December 3, 1981).

The PRC identified a number of staggering discrepancies between the RCA contract for the E-COM system and what the PRC had initially approved in the E-COM Docket. The RCA contract costs totalled at least $38.6 million, a sum more than five times the initial capital costs estimated. The RCA contract entailed E-COM service features not previously considered by the PRC, e.g., direct acceptance by the RCA transmission system of messages recorded on computer tape physically delivered to the E-COM carrier or the SPO; the capability to move messages between SPO's through Express Mail transfers of magnetic tapes; and direct private line message input to SPO's. The latter new service feature would result, according to the PRC, in "omission of telecommunications common carriers as necessary intermediaries between customers and the SPO's" (id. at 6-7, n.1), and sets the stage for the eventual emergence of the USPS as a communications carrier or a resale carrier.

It is also noteworthy that the USPS E-COM Invitation for Bid (IFB) required the provision of an "Administrative Network [as a component of the E-COM system] which connects all SPO's to a Management Operations Center (MOC) through common carrier telecommunication services" (IFB 104230-80-A-0207, September 24, 1980, at 25). The IFB also stated that the Administrative Network was to be designed to handle USPS administrative traffic and although "not intended for transmission of customer message traffic" (id.), the Network is clearly capable of transmission of customer messages. RCA was awarded the E-COM system bid.

C. USPS Involvement in the Electronic Message Services Business

The evolution of the EMSS and E-COM ventures reveal the systematic and, thus far, successful effort by the PRC and the USPS to enable the USPS to compete with the private sector in the electronic message services marketplace and to enhance its market penetration. Already, in the E-COM venture alone, both the PRC and the USPS have agreed that the Postal Service may become a provider of basic transmission services between customers and postal facilities, and between SPO's, and may be a reseller of such services. If these or other electronic message services offered by the USPS entail significant embedded data processing capabilities, where the customer or SPO is able to store and retrieve messages and to manipulate the content of these messages via software and hardware functions, then USPS competition with the private sector is compounded.

The USPS has already been granted authority by the PRC to engage in substantial data processing services at each regional SPO, services traditionally provided by private industry. Postal Service conversion of electronic messages into hard copy represents an additional source of government competition with the private sector. Moreover, the USPS has received authorization to have 100 percent back-up data processing capability for its SPO functions. This "back-up" provides yet another means for the USPS to compete with independent computer service vendors.

ADAPSO has had many years of experience with enterprises (such as banks and AT&T), which have regulatory limits on product and service offerings, exploiting "excess" or "back-up" data processing capacity to offer computer services to the public that are otherwise prohibited. There is significant opportunity for the USPS to publicly market its "excess" or "back-up" data processing capacity, arguing that efficiency demands this intrusion into the private sector and ignoring the fact that capacity committed elsewhere is not available for the intended "back-up" purposes.

The Postal Service has attempted to disavow any interest in publicly offering basic transmission services, computer services and end-to-end (Generation III) electronic message services. The evolution of E-COM, in particular, seriously undermines this protestation. Moreover, Postal Service executives have repeatedly indicated that the USPS will provide these services unless prevented.

Senior Assistant Postmaster General James Finch refused to accept an outright ban on USPS ownership or lease and resale of private transmission facilities during October 5, 1981 hearings before the House Subcommittee on Government Information and Individual Rights. William Sullivan, a Governor of the Postal Service and Chairman of its E-COM Committee, has been quoted as saying that the USPS "must reserve its options" should carriers not support E-COM (Communications Daily, October 6, 1981, at 4), and that owners of computer terminals (i.e., end-to-end electronic message services) are the "Postal Service's main market" (Communications Daily, July 8, 1981, at 1). These ambitions have been heard before, more than five years ago, in November 12, 1976, testimony of J. T. Ellington, Jr., then Senior Assistant Postmaster General, before the National Commission on Electronic Funds Transfer, and in a December 10, 1976, Postal Service Staff Study entitled "The Necessity for Change" (Committee on Post Office and Civil Service, 94th Cong. 2d Sess., at 30-1 (Comm. Print No. 94-26)).

USPS intentions and the evolution of E-COM indicate that the Postal Service is positioning itself to compete with the private sector in the elctronic message services marketplace on a scale far larger than that evident in the current E-COM program. Unless prohibited, the USPS will become entrenched in the electronic message services business, a result that is contrary to this nation's fundamental commitment to rely on the private sector for provisions of goods and services.

II. POSTAL SERVICE COMPETITION WITH THE PRIVATE SECTOR IN THE ELECTRONIC MESSAGE SERVICE MARKETPLACE IS UNNECESSARY

The electronic message services business, although an infant and emerging field, is already highly competitive and dynamic. It is an area characterized by intense research and development efforts, vigorous innovation and robust marketing practices. As the cost of computers and terminal devices declines, it is expected that the electronic message market will expand dramatically, further attracting competition and innovation. There is every indication that the private sector is highly capable of and will continue providing electronic message services in an adequate and efficient manner responsive to existing and eventual consumer demand.

All of the major computer networks in the United States already offer electronic message services utilizing almost exclusively the intercity and long-distance transmission facilities of AT&T. GTE-Telenet provides Telemail while General Electric Information Services Company offers Quik-Comm over its Mark III service network. Tymnet's system is called On Tyme. Datapac offers Envoy 100.

An increasingly large number of timesharing vendors and software houses offer electronic message systems. These systems can be used on a remote and interactive timesharing basis, may be ordered for intra-corporate installation as in-house software packages, or purchased as in-house turnkey systems. Available systems include those offered by Computer Corp. of America (COMET);

Scientific Time Sharing Corp. (MAILBOX); Dialcom, Inc. (MAILCALL); Compuserve (Info-Plex); Microcom (Micro-Courier); and by Bolt, Beranek & Newman, Inc. (HERMES). Additionally, Computer Sciences Corporation, Automatic Data Processing, Inc., National CSS, United Information Services, Inc., The Source, NLT Computer Services Corporation, Applied Data Research, Inc., and an increasing number of other computer service vendors provide electronic message systems, and/or software, and/or conversion of electronic messages to hard copy to their customers.

The vendor of integrated office systems is also active in this market, providing electronic message systems as an available function in communicating word processors and turnkey systems. These vendors include Datapoint Corporation, Wang Laboratories, Inc., Prime Computer, Inc., Xerox and IBM. In addition, a large number of major corporations have their own in-house, store-and-forward computer-based message systems for inter-office administrative purposes.

The electronic message systems described above involve, for the most part, "Generation III" systems in which both the sender and the recipient of the message have a terminal device connected by a telecommunications line to the message computer. Generation III systems are also called end-to-end or terminal-to-terminal electronic message systems. In a "Generation I" system, hard copy messages are converted to electronic impulses for transmission over telecommunications lines to a destination where the messages are reconstructed in hard copy form with subsequent physical delivery. Generation I services include Western Union's Mailgram, Graphnet's

Faxgram and the Western Union telegram. "Generation II" services entail message input in electronic form via telecommunications lines with output converted at the destination into hard copy form. Generation II services include Mailgram II as well as Faxgram in certain situations. Other private sector offerings in the Generations I and II categories include Tymnet's "TYMEGRAM", Southern Pacific's "Datapost", Lincoln Data Service's "Priority Dispatch", Diversified Data Processing's "Overnight Message Service", Spence Enterprises "Communique", Registered Express' "Registered Express" and Telepost's "Telepost" (see Plaintiff's Memorandum of Points and Authorities, at 30, United States v. USPS, No. 81-3206 (D.D.C., filed December 30, 1981)).

The private sector has established that it is willing and able to serve the expansive electronic message marketplace. There is simply no indication that a competitive industry structure will fail to serve adequately the demand of the consuming public. Moreover, there has been no demonstrated public policy justification for USPS competition with the private sector in the provision of electronic message service. There is simply no need for USPS competition with the private sector in this field of business.

III. POSTAL SERVICE COMPETITION WITH THE PRIVATE SECTOR IN THE ELECTRONIC MESSAGE SERVICES MARKETPLACE IS IMPROPER

It is the basic premise of this nation's free enterprise system that goods and services should be produced by the private sector in open and competitive markets. Similarly, it has been long established that government should procure its goods and services from the private sector and ought not to compete with private enterprises. This principle is recognized in OMB Circulars A-76 and A-121. As the Director of the Bureau of Competition of the Federal Trade Commission stated in October 22, 1981 testimony presented to the House Subcommittee on Goverment Information and Individual Rights:

> Government enterprise should be viewed as the last alternative. Government should engage in enterprise activities only in the rare instances where it is clear that the private sector is incapable of producing necessary or highly desirable goods or services in an acceptable manner (at 2).

The electronic message services marketplace specifically and the computer services and communications marketplaces generally are dynamic, competitive and innovative. Given the track record of the computer services and communications industries, this sector of the nation's economy is perhaps the least likely to warrant government enterprise. As demonstrated previously, the private sector has given every indication that it is able to and will serve the electronic message service marketplace in an efficient and desirable manner.

Despite this, the USPS, a government-owned entity, is preparing for large-scale entry into the electronic message services business. As stated well by the United States Department of Justice and the National Telecommunications and Information Administration of the United States Department of Commerce in joint comments in the E-COM Docket:

> The proposed E-COM service is, potentially, the leading edge of substantial policy change, since it clearly presages further and extensive involvement of a substantial federal government enterprise in what possibly may otherwise prove to be a dynamic and competitive field (at 8).

ADAPSO opposes Postal Service competition with the private sector in provision of electronic message services to the public. Such competition is simply unnecessary and would disrupt if not eliminate the competitive marketplace forces that foster efficient allocation of resources, the highest quality for the lowest price, innovation and free market entry. USPS competition in this marketplace is therefore improper; it flies in the face of the long-held principle that government ought not to compete with the private sector. Moreover, USPS diversification into the electronic message services business will involve the USPS in a technology-intensive service which falls outside the postal monopoly and to which the USPS can profess but limited expertise.

Accordingly, ADAPSO opposes USPS provision or resale of Generation III or end-to-end electronic messages services, USPS provision or resale of Generations I and II services including E-COM and EMSS, and USPS provision or resale of post office-to-post office transmission services. ADAPSO believes that the Postal Service should rely on the private sector for provision of data processing and conversion services. Additionally, ADAPSO opposes the entirely inappropriate extension of the Private Express Statutes so as to bring within the postal monopoly end-to-end electronic message services, the electronic transmission portions of the Generations I and II message services or any electronic message service involving any component of physical delivery of hard copy information.

The Postal Service would do well to remain attentive to its traditional role of receiving hard copy and delivering it to the addressee. There is increasing need for the USPS to concentrate its resources on its traditional role. Postmaster General Bolger, in October 5, 1981 hearings before the House Subcommittee on Government Information and Individual Rights, testified that the volume of "hard copy mail" will grow for many years and that electronic message services will not supplant postal services (at 1). In fact, the growth of Generations I and II electronic message services will intensify the need for the Postal Service's local distribution facilities.

The USPS could play a major role in the electronic message services business by capitalizing on the innovations of the private sector in this field. Generations I and II electronic message services require a capability to deliver hard copy output to recipients who do not have terminal devices in their homes or places of business. The USPS may provide the space and operations personnel to enable those telecommunications and computer services firms offering electronic message services to input messages electronically to a destination post office utilizing a vendor-provided, dedicated or shared, terminal device capable of conversion of electronic messages into hard copy. Having provided the space and personnel necessary to accommodate this input and conversion by the private sector, the USPS would then accomplish physical delivery through its local distribution facility.

This would preclude USPS investment of huge sums for development and purchase of computer systems, printers and terminals; it would obviate the need for procurement and operation or resale by the USPS of telecommunication links between post offices and between customers and post offices. Moreover, this scenario would avoid improper USPS provision of end-to-end electronic message systems, transmission services, conversion services, computer services and the like. Instead, the Postal Service would be able to make available to electronic message service users and providers its unique monopoly distribution facilities. This role would stimulate the Postal Service's traditional business and its labor force of letter carriers. The Postal Service would then be a catalyst encouraging the development of flexible and innovative electronic message services funded by the private sector.

IV. POSTAL SERVICE ACTIVITY IN THE ELECTRONIC MESSAGE SERVICES MARKETPLACE, IF PERMITTED, SHOULD BE PRO-COMPETITIVE

Serious threats to competition may arise should the USPS be permitted to enter the electronic message services business with no restraints on the manner of its entry. As a government-owned and regulated monopolist engaging in a competitive marketplace, the USPS will have substantial opportunities to subsidize its competitive offerings in the electronic message services market with resources and revenues derived from its letter delivery monopoly or through the Treasury's subsidy of the Postal Service as a whole. Such cross-subsidization by the USPS may well result in significant economic harm including predatory or below-cost pricing that drives independent competitors out of the market, and discouragement of market entry by private entrepreneurs who cannot compete with organizations having governmentally guaranteed revenues. Cross-subsidy may also result in unearned, excessive monopoly revenues derived from traditional postal customers. The effect of all this in the marketplace is unfair and decreased competition which eliminates those market forces that work to ensure the most efficient and desired electronic message services.

Another competitive problem of unrestricted USPS entry into the electronic message services marketplace involves the unique, monopoly hard-copy distribution facilities of the Postal Service. Should the USPS be permitted to become a communications carrier or a resale carrier in competition with the private sector, it will have tremendous incentive to deny access to its local distribution facilities to those competitors which prefer to employ their own arrangements for electronic message transmission rather than using the facilities provided by the Postal Service. Similar competitive hardships will accrue should the USPS deny access to its monopoly distribution facilities to certain firms or provide for access on a discriminatory basis.

The problems of potential cross-subsidy and denied or discriminatory access led the Carter Administration and the United States Senate to the endorsement of certain conditions on the manner of USPS involvement in competitive electronic message services. In its July 19, 1979, position paper on this matter, the Carter Administration stated that USPS competitive activity should not be subsidized by tax money or by revenues from other USPS services. The position paper also expresses the view that USPS electronic message services should be established as a separate entity for accounting and ratemaking purposes to ensure competitive operation and to avoid cross-subsidization. The Administration also required the USPS to "make its delivery services available to all electronic carriers at the same rates as those it charges itself" and "to ensure that interconnection with the mail delivery system is available to all companies...." The PRC, in its initial Decision in the E-COM Docket, echoed these access and interconnection requirements (at 98-100 and Appendix C).

In Section 204(b) of S. 898, passed by the United States Senate on October 7, 1981, the USPS was permitted to engage in the electronic delivery of messages to non-affiliates, by resale or otherwise, but only through a separate organizational entity fully described in Section 204(b)(2) and structured to prevent operational cross-subsidy. Section 204(b) also required this separate entity to conduct business with the USPS on the same basis that business is conducted with non-affiliates, without any discrimination or preference arising out of affiliation. It should be noted, however, that S. 898 itself and an extended Senatorial colloquy established that neither the bill nor those sections pertaining to the USPS would permit the USPS to compete with the private sector in provision of electronic message services and that Congressional authority to do so must be obtained before the USPS may undertake to engage in these activities.

Notwithstanding these directives and general pro-competitive considerations, it appears that E-COM will be subsidized by other USPS services. The actual costs of the current E-COM system are significantly greater than the cost estimates relied upon by the Postal Rate Commission when it established current E-COM rates and fees in its Recommended Decisions. Initial estimates of the total capital investment for the E-COM system came to $7.4 million. The January 16, 1981 contract between the Postal Service and RCA for the E-COM system provides for USPS expenditure of at least $38.6 million. Despite this dramatic difference, the current E-COM rates and fees are those established over two years ago when estimated capital investment totaled less than one-fifth of current expenditures and when the first class postage fee was 15¢

per ounce. E-COM rates and fees are not compensatory and will require subsidization from Treasury or other USPS service revenues. It is also clear that, unless compelled, the Postal Service will not take the initiative to adjust its E-COM rates and fees to reflect actual costs and first-class postage (see Plaintiff's Memorandum of Points and Authorities, at 27, United States v. USPS, No. 81-3206 (D.D.C., filed December 30, 1981)).

Improper cross-subsidization may also result should the USPS incur attributable, assignable and residual costs of the E-COM venture which have not been reflected in the rates, fees and capitalization base for E-COM. The Postal Service has already committed significant managerial and administrative resources to the E-COM program on an apparent non-compensatory basis. More than 20 managerial employees from USPS have been diverted to E-COM efforts. The Postal Service has undertaken building modifications and postal personnel training to accommodate E-COM program demands. (See Comments of the USPS on the PRC's Notice of Inquiry in Remanded Proceedings, Docket No. MC78-3, at 3-4 (July 28, 1981)).

In addition to proscription of USPS cross-subsidization of E-COM activities, executive and legislative directives have demanded universal and non-discriminatory access to the local distribution facilities of the Postal Service. The E-COM telecommunications connections arrangements propounded by the USPS do not comport with these directives (see 46 Fed. Reg. 50875-82; 46 Fed. Reg. 62268-73). Rather, distinct preferential access arrangements are guaranteed AT&T by the USPS and the small or low-volume E-COM participant is penalized.

It would appear, although the matter is far from clear, that all capable companies including computer service vendors are permitted to obtain dedicated access to SPO facilities. Each SPO, at the inception, will have six input ports or access facilities for interconnection. Three of these ports will be dedicated and available only to USPS-authorized E-COM carriers, including AT&T. Surplus demand for dedicated ports will be diverted to public "dial-up" ports until such time as additional dedicated ports are available. The remaining three ports of the initial six at each SPO (and half of all SPO ports installed by the USPS) will be public or dial-up and available only through connection accomplished by the "nation-wide public switched telephone network", namely, AT&T.* Although E-COM carriers using dedicated ports may engage in unrestricted sharing of these access facilities, the carriers utilizing dedicated ports are limited to one such port at each SPO per carrier until all initial requests for ports have been granted.

AT&T has obtained guaranteed interconnection with the SPO's through three of the six ports initially available at each SPO. Further, AT&T may compete with other E-COM carriers for one of the three remaining dedicated ports at each SPO. These competing carriers, however, are limited to one dedicated port per carrier, although sharing arrangements may be devised. It is clear that the USPS interconnection arrangements discriminate unfairly and overwhelmingly in favor of AT&T to the competitive detriment of other E-COM participants.

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* The terms and conditions of the January 8, 1982 settlement of the AT&T monopolization case, in which AT&T was required to divest its local operating companies and local exchange services, would appear to require drastic revision of the E-COM interconnection arrangements published by the Postal Service.

Moreover, competing E-COM carriers must provide their own telecommunications circuits and connection equipment, including modems and data service units for each SPO. On the other hand, the Postal Service will make available all of the telecommunications equipment and services required at each SPO to permit AT&T dial-up access, including protocol boards, hardware, software, modems and network connections. This arrangement again discriminates in favor of one E-COM carrier, AT&T, over others.

The USPS has required that a minimum of 200 separately addressed messages be transmitted to the destination SPO at any one time. The USPS will process less than 200 messages, but the sender will be billed at the minimum rate for each transmission, i.e., the rate for 200 messages. This hampers E-COM participants of small size and those which serve low-volume or remote geographic areas and places such carriers at a competitive disadvantage vis-a-vis AT&T and larger E-COM carriers.

It is ADAPSO's position that if the USPS is to be permitted to engage in the competitive electronic message services marketplace, it should compete fairly without benefit of cross-subsidy derived from its regulated status. This may be accomplished by requiring the Postal Service to conduct its entire competitive activities through a subsidiary with stringent accounting and structural separation requirements designed to detect and nullify opportunities for cross-subsidization and other competitive abuses. ADAPSO also believes that the USPS should be required to provide interconnection with its monopoly distribution facilities to all able and willing companies, including computer service firms, on a fair and non-discriminatory basis and under the same standards, requirements and charges the USPS imposes on itself for E-COM service. Unless a competitive USPS structure for entry into the electronic message services business is assured and unless universal and non-discriminatory access to the Postal Service's monopoly distribution is guaranteed, there will be unfair and decreased competition in the electronic message services marketplace. Denial of fair and non-discriminatory access and improper cross-subsidy may well open the entire marketplace to USPS domination as private sector firms are either driven out or deterred from entry.

CONCLUSION

The adverse competitive effects of unrestricted USPS diversification into the electronic message services business threaten an efficient and responsive marketplace. This is especially unfortunate because entry by the Postal Service into this marketplace is unnecessary and improper in the first place.

The private sector has demonstrated its willingness and ability to serve the existing and eventual demand for electronic message services. In fact, there has been no demonstration that enterprise in this sector of the economy by a government-owned and regulated monopolist is warranted or desirable in any sense. Accordingly, Postal Service competition with the private sector in this field is improper. For this reason, ADAPSO's position is that the Postal Service should not be permitted to compete with private organizations in provision of electronic message services to the public and that the Private Express Statutes should not be extended to cover electronic message services involving any component of physical hard copy delivery.

The Postal Service should concentrate on meeting the increasing demand for its traditional services of receipt and delivery of hard copy mail. By resisting competition with the private sector and by fostering private sector electronic message services, the Postal Service will be able to join its unique distribution facilities and labor force with private sector innovation to form a pro-competitive partnership that serves the consuming public in an efficient and desirable manner.

Viewpoint

ECOM: Unfair Competition With Private Enterprise

by Karl Zetmeir

The new ECOM (Electronic Computer-Originated Mail) service of the USPS is now in operation, allowing mailers to transmit their personalized messages and bills to special post offices across the country for "maximum two-day delivery."

From my point of view as a supplier of precisely these services, and speaking for hundreds of other marketers of forms, paper, envelopes, computer systems, ink-jet and laser printers, and others in the private sector whose business will be adversely affected, this is an intrusion by the government into a field where they have no business being.

Besides this, the new program is destined to be a financial boondoggle. The total cost for a single page is 26¢; a second page is 5¢. When you subtract the 20¢ that they must charge back to the postage account, you see that the USPS proposes to print as few as a couple of hundred *personalized* messages, stuff them into envelopes, and get them into the mail stream for less than 6¢ each. At 200 pieces, that's a $12 minimum charge for the production portion of the service! Obviously, the only way that the ECOM program can even hope to break even is to push for huge volumes of mail through the system.

Can't Pay Its Own Way

The USPS "guestimates" a first-year volume of 12 million messages, yielding only $720,000 (after postage) gross revenue. To get even this volume, they are going to go after my customers, and those of every computer-personalized mailer in the country. Why should our tax dollars go into subsidizing a major competitor which, incidentally, pays no taxes itself?

My information is that the USPS has already invested more than $30 million in computers, printers, and other equipment. At 15% interest, that's $4.5 million of return required just for a break-even. Additional millions for training, physical space, set-up, repairs, etc. have not even been estimated. Even at 100 million pieces a year, this system can't be expected to pay for itself.

The Postal Service is understandably anxious about the encroachment by electronic services into its traditional bailiwick, but it is misguided in its attack on the problem. Although it is laudable—and cost effective—to deliver time-sensitive mail within two days of its generation for only 26¢, the task of physically printing out, personalizing, and mailing could easily be handled by private enterprise in each large metropolitan area. The competitiveness of the marketplace would determine the final cost to the mailer—and this price would be one which would bring the printing/mailing service a profit (and thus would generate, *not waste*, tax dollars).

A Modest Proposal

Obviously, there are a great number of people who are vehemently opposed to USPS involvement in the physical preparation of mail—and not just vendors. The Justice Department, some members of the Postal Rate Commission, and numerous groups fighting the extension of government into areas competitive with private enterprise have registered their opposition, though the Postal Service is not likely to dismantle ECOM in the near future. It may even seek to expand it. At the very least, however, the following should be implemented to mitigate the fallout from the program:

- *Restructuring:* a realistic cost/price analysis should be made, and the service should be made to pay for itself.
- *Restraint:* the Postal Service should be prevented from soliciting the customers of competing services.
- *Limitations:* ECOM should be reserved for transmission of messages received through actual "telecommunications links," not "over-the-counter" tapes.
- *Urgency:* this program should be strictly limited to materials requiring delivery without delay—bills, product recalls, urgent messages, etc.

All that I and my fellow suppliers are asking is that the government refrain from competing unfairly with us for this business. For in almost every case, private enterprise has proven over and over again that it can offer better service more cheaply to the mailing community than anything that the government can devise. We simply want a fair contest, an equal chance for the business.

Mr. Zetmeir is president of Words & Data, a service offering computer-assisted marketing (and laser-personalized letters) to mailers: (913) 722-6424.

Senator SYMMS. Thank you very much for a very thoughtful and comprehensive statement. I do appreciate it, and I do apologize for asking the witnesses to expedite their statements. I know we asked you to come here and testify and you worked hard to prepare a statement. It always bothers me to ask a witness to summarize and put it in the record. Other Senators don't hear it and I apologize for that. However, we are not able to control the floor of the Senate action, as you're aware of.

Now we'll hear from Joe Coates, president of J. F. Coates, Inc., a policy analyst who will testify with regard to the future of mail delivery, especially telecommunications.

STATEMENT OF JOSEPH F. COATES, PRESIDENT, J. F. COATES, INC., WASHINGTON, D.C.

Mr. COATES. Thank you. It's a privilege and pleasure to be here, particularly a pleasure to see the subcommittee continuing its custom of calling on people whose orientation is toward the future for some witness insight.

Were the Postal Service a new organization set up in the last 20 years, I think, by anybody's measure, it would be a smashing success. It's got 40,000 sites. It touches 82 delivery points. It deals with 110 billion items each year. Its productivity is, in fact, increasing. So the critical question to focus on is, why is such a superficially successful organization so nettlesome to the Congress and such a continuing trouble to various stakeholders? And I think, to jump ahead to a conclusion before getting at some of the forces making up its future, I'd like to point out that it comes from the fact that it's like a pseudobusiness and bureaucratic forces act very strongly to constrain its choice of actions and, second, congressional interventions have continually exacerbated the problems of the Postal Service as a pseudobusiness.

But turning to the question of its future, I think its strategy, its posture toward the future, is roughly that of the automobile industry in the late 1960's. It is refusing to look at the radical changes coming over the horizon and it is, in fact, focused on a defensive posture.

The two areas universally regarded as affecting its future are, of course, electronic funds transfer and electronic message systems, and a great deal has been written about that. Most analyses have focused on that.

Assuming that's well under your control conceptually, I'd like to move on to some other factors. The wiring of the Nation, for example, the cable, interactive to a cable, is proceeding at such a rapid pace that within the next decade or two, this may have radical effects on the way people order things—TV catalogs, video displays in the home for home use, for small businessmen, for purchasing agents, and large companies may have a drastic effect on bulk mail and catalog mail. On the other hand, it may open up a tremendous amount of new parcel services.

Another trend affecting the future—and it's important to recognize that not everything is connected with electronics or information directly, but a number of things connected with the work force—the American work force is now becoming a dual work force. Men and women are entering on conditions of parity. Such things as flextime and depressed work schedules and so on becoming commonplace, people are coming to demand new working arrangements.

So a fundamental planning error the Postal Service could make is to assume that it is committed to a fixed work force. That could be a dead weight on all future planning when the rest of the work force is moving in an entirely different direction.

Another trend of major importance is that of the Postal Service as a minority employer. The progress made by blacks, Hispanics, and other minorities has been enormous. The pace is continuing and, consequently, any assumptions about the future premised upon the Postal Service as a minority employer is likely to be radically in error and another dead weight on its thinking. If we don't continue to integrate minorities into the general economy, nothing that the Postal Service does is going to be beyond the trivial in that regard.

Another trend of major importance is the set of combined demographic, business, and industrial migration patterns. America will continue to be metropolitan and urban, but there's likely to be much more metropolitan sprawl and this will create new demands for information delivery, delivery of new forms, new sites, new clients, new customers. Demography is also telling us in the next 20 years there's going to be an explosive increase in elderly population. Important to the Congress is to recognize that the elderly population is going to be highly politicized and extremely effective in the voting booth and they're going to demand services that are convenient, low in energy requirements, physical personal energy, convenient at low cost. And that has to be integrated into any public service thinking.

The Postal Service has consistently overlooked a number of its opportunities which incidentally market as a pseudobusiness. It fails attention to a principal asset—40,000 sites from which it operates. It has no vision of a sense of alternative services, new developments that it might feed into, the possibility of becoming a major agency for the dissemination of information from the Federal Government, and other information related services. Essentially, that's a core asset that is almost totally ignored in almost all planning.

One could very well imagine these 40,000 sites being centers for computer consoles that would be wired into a variety of complex other information services.

Another opportunity that must be faced in the question of future vulnerability of any new system, but rather than continue to list these major changes, let me just summarize the difficulty as I see it, that the difficulty is of the Postal Service in coping with the future is that they're locked into a single traditional sense of mission. They have no positive sense or image of the future. They have no vision of what should the Postal Service be, and clearly, if they continue with their single mission strategy, they're going down the tube. Yet their future can be quite bright if they look at the question of what should their future be.

So putting that together in planning for the future, I would suggest three congressional actions as important, straightforward, and doable.

First, is to lay on the Postal Service and its Government regulators a requirement to come forth with three, four or five radically different alternative developments for the Service over the next two or three decades and that this be made a mandated requirement for oversight hearings and that the Congress be quite insistent that those alternatives be truly radical.

Let me point out that the current work of OTA which is quite good in this area lacks this positive image, this sense of positive image, and lacks the textured alternative future for the Postal Service.

The second thing which I think is extremely important is to unequivocably discharge the organizational uncertainty that the Service is faced with. It's almost inconceivable that any new body of information, any collection of facts or data, will discharge the intrinsic uncertainty about the ways in which telecommunications will develop. So that's a sterile avenue to pursue. It is however open and quite possible to clarify the organizational uncertainty rather than to continue the congressional perturbation for the future.

And then, finally, it seems to me that the Congress should endorse expectations that among the images the Postal Service creates for its own future there be frank opportunity for public-private cooperation, opportunities for privatizing some information services, opportunities for joint public-private ventures, and that the Postal Service in its planning explicitly consider social role for the 21st century that would be good and useful to perform.

It must not be arbitrarily constrained. When I say this, I mean the Postal Service, its governors and it regulators. As you heard today, they must not be arbitrarily constrained in their imaginations of preconceptions about the future. They must not be committed to a single view of putting it on a business basis.

So with that, it seems to me that the summary sense which I find absent from most deliberations on the Postal Service is the fact of radical changes in the future; and radical change must in fact be radical. Thank you, Senator.

[The prepared statement of Mr. Coates follows:]

PREPARED STATEMENT OF JOSEPH F. COATES

Were the U.S. Postal Service a new organization, let's say one founded within the last twenty years, it would be a smashing success in anyone's book. It works seven days a week. It has close to 40,000 offices and branches. It delivers to 82 million sites and employs two-thirds of a million Americans. It moves over 106 billion items, and its productivity is rising. Statistically, it ranks with such recognized successes as McDonald's with its billions of hamburgers, and Sears with its mountains of products. Why then is it such a troubled and troublesome organization? Why is there nearly universal dissatisfaction with its performance and great anxiety over its future? And finally, why is it so nettlesome an issue for the Congress?

I will address these questions from the perspective of trends and forces operating within the American society which are creating an upheaval in the primary product of Postal Service activity -- information. To jump ahead to some basic conclusions, the anguish over the Postal Service is largely bureaucratically induced and Congressionally exacerbated. It results from a defensive mentality in the face of inevitable and visible momentous changes consequent on the mass introduction of telecommunications and computer technology throughout American society. The Postal Service's pseudo-business structure precludes operating on a businesslike basis in terms of setting its rates, innovation, experimentation, and so on. It is further saddled by a group of social concerns which are themselves, at any given moment, of intense concern to some stakeholders but which in the long pull are of diminishing importance.

The Postal Service now seems condemned to a backward view of its glorious past with no positive images about what its future could be like. Psychologically, it is in the position of the automobile industry in the mid-70's, the railroad industry of the last 30 years, and the housing industry today -- linked to a bygone past, with little organizational vitality and few incentives, committed at best to holding actions. Its fearful engagement of the future and overly timid experimentation and innovation condemn it to second rate performance and steady decline should no radical interventions occur.

Technologies of the past, which the Postal Service, then the Post Office, so vigorously embraced, such as railroads, trucks and air mail delivery, all shared one characteristic. They clearly were able to enhance a well-defined and monopolistic mission. The new major forces now visible, or barely over the horizon, with regard to the Postal Service are of equal, if not greater, importance but with a quite different characteristic. They are evolving outside the postal system and effectively and vigorously cutting into the same market for information transfer. The new functions and organizations are technologically and institutionally rapidly evolving. They are motivated by profit. They are more fleet footed, more experimental, and feel less threatened than the slow moving behemoth bureaucracy typical of most American institutions. U.S. Postal Service knows very well how to manage growth but does not have an effective management strategy for radical change.

In the remainder of my remarks I will address the bases for radical change and propose two or three rather straightforward steps to begin the move in more effective directions.

The two universally recognized technological changes affecting the Postal Service's mission are the growth of electronic funds transfer, which will radically modify a prime source of its business, namely, the movement of bills and checks; and the development of electronic message systems which will alter the origin, handling, use, style, and delivery of most forms of written messages. These developments have received most of the policy analytic attention by the several groups that have looked into the future of the U.S. Postal Service.

There are other forces for change, however, which may more drastically modify its customary services. The wiring of the nation for cable TV is proceeding rapidly. Interactive, two-way cable will, over the next decade or two, cut into the advertising and catalogue business of the Postal Service. Active call-up systems will permit householders and small business and large business purchasing agents to go directly from desktop video screen to a systematic interrogation of the market for the items and products of interest. The extent and scope of video catalogue shopping could sharply shrink bulk and catalogue mail. The effects in detail are obscure since we do not know what the price structure and the consumer acceptability will be. We also do not know the degree and kind of novelty these new forms of advertising will take. The only thing we can demonstrate absolute confidence in is that in all commercial information delivery radical changes are coming.

Not everything affecting the future of the Postal Service is in terms of electronics and information handling. A set of tacit assumptions about the workforce permeates most discussions of the future of the USPS. Those assumptions are open to question. America is moving to effective full-time employment of women on parity with men. We are also moving toward large scale use of alternative work schedules such as flextime and compressed work schedules. In the long pull, i.e., over the next decade, the growth of dual income households and the growth of households with unconventional living arrangements may make larger numbers of people more interested in discretionary, part-time, and flexible employment. Assumptions that the USPS will, except in holiday time, be dealing with a fixed, permanent labor force could be radically incorrect and a dead weight on its planning.

Similarly, the matter of the Postal Service as minority employer seems to overlook the fact that Blacks, Hispanics, and other minority groups are making substantial progress and are being integrated into the larger socioeconomy. On a ten to thirty year perspective it is obsolescent thinking to frame any development for the Postal Service around conditions of minority employment. But if the nation does not find means to further integrate minorities into the overall economy, any actions vis-a-vis the Postal Service will be trivial. In other words, the problems of Black and other minority employment will either become history or the nation will be in very deep trouble.

Another neglected factor affecting the long term role of the Postal Service is the combined demographic, business, and industrial migration patterns. They are changing the location and concentration of people across the face of the land. There is broad forecaster consensus that the U.S. will continue to be an urban, metropolitan nation, but that the population within metropolitan areas will be more spread out than it has been in the past. More spread out implies, presumably, new needs, forms, and styles of delivery of information.

Demography also tells us that the population will, on the average, be older, and that there will be substantial increases in the elderly population who will exhibit, by and large, two important characteristics. They will need convenient services brought to them at low cost and not demanding heavy physical energy or monetary expenditures. Secondly, they will be strongly politicized and prepared to vote and campaign for their needs. Directing services to an aged population and to an even larger mature population will be an important federal mission. Demographic patterns further tell us that the present supply of entry-level workers will decline in the 90's as the baby bust enters the workforce.

Tied to these changing demographic and social needs are the possibilities of taking advantage of a very special resource of the U.S. Postal Service -- its some 40,000 sites. The opportunity to be more than post offices by making them federal information outlets for the Government Printing Office, for various federal agencies or centers delivering many public services, particularly information services, could be quite attractive. In general, these functions imply that the U.S. Postal Service view itself in new ways and as having new missions. Its positive future lies in being a broad information delivery service to all our citizens. Information is an increasingly dominant factor in our society. Hence, modes and means of delivering it will become important. One can well imagine the day in which computer consoles and information call-up systems will be commonplace services in post offices.

Other factors entering into the movement into electronically mediated information systems raise important questions of vulnerability of the system to planned or unplanned disruption. The physical vulnerabilities to storms, floods, natural hazards, technological disasters, needs to be more effectively integrated to Postal Service planning. On the other hand, new vulnerabilities may arise or evolve in special ways tied to the possibilities of disruptions by its workforce due to strikes or other actions.

One could summarize many of the difficulties that the Postal Service has in coming to grips with radical change as being due to its being locked to a traditional sense of mission. In contrast, its opportunities lie in developing and framing radical, not incremental, new missions. The consequence of being locked into old missions and limited perspectives is painfully illustrated by the sad condition of the U.S. railroads. The railroads have never seen themselves as in the transportation business -- but merely as railroads. The sense of the change of mission is not a trivial consideration. In the private sector we see the profound implications of a redefinition of missions in petroleum companies. Esso reframed its mission, changed its name, and in a real sense ceased to be a petroleum company and became an energy company. A change of mission is not a trivial relabeling but a fundamental restructuring and revitalization of what an organization is about.

A second major limitation in the future of the Postal Service is its lack of positive images of the future. It can not and now does not want to answer the question, "What could the Postal Service be?" Until there are three, four, or five explicit, well-elaborated, and different alternative missions, neither will the Postal Service be in a position to advocate, nor the Congress be in a position to decide, how and what the new roles should be.

Against that background I see that a major opportunity for the Congress in coping with and helping to frame and mold the future of the U.S. Postal Service is to lay on them an immediate requirement to begin to define alternative new missions, and to begin to define a variety of distinctly and radically different images. I believe that a year is adequate to do this. I believe that it cannot be done solely by the present Postal Service staff. I believe that framing oversight hearings a year from now on those missions would, all in all, be most beneficial. Even the current OTA work on the U.S. Postal Service lacks any positive images or well textured alternative structures for that organization.

The most important action, as I see it, that the Congress can take, in view of the intrinsic uncertainty about the impacts of computer and telecommunications development on the system, is to unequivocally discharge the organizational uncertainty which is effectively paralyzing the public and private sectors in the development of new information systems in relation to the Postal Service. As I see it, it is far more valuable to discharge the organizational uncertainty soon than it is to indefinitely wait for some never-to-be-available critical information.

Finally, it seems to me that the Congress should endorse an expectation that among the images that the Postal Service creates for its future should be frank attention to opportunities for public and private cooperation, new opportunities for privatizing some information services, and joint public and private ventures. On the other hand, the new mission must also consider the social roles for the 21st Century which a new Postal Service could provide. The Postal Service, its governors and regulators, must not be arbitrarily constrained in their imagination by preconceptions of being or not being on a "business basis." Nor must they fear social missions which may or may not be a la mode. Radical change should be radical.

Thank you.

Senator SYMMS. Thank you very much, both of you, for excellent statements. The Chair will state that I do have several questions that we would like to ask both of you to be in the record, but due to the time constraints, I'm going to submit those to you in writing if you would accept that. Then we will try to get our last two witnesses up. So thank you very much.

We would like to hear from William A. Robinson, director, DHL Corp., a document courier service; and Patricia H. Brennan, of Rochester, N.Y., formerly the owner of a private mail delivery service in Rochester.

I might ask—I understand, Patricia, that you're from New York, and, Mr. Robinson, are you from here in Washington?

Mr. ROBINSON. San Francisco.

Senator SYMMS. Do either of you have a quick plane that you're trying to catch?

Ms. BRENNAN. No.

Mr. ROBINSON. No.

Senator SYMMS. OK. Since we're going down the list, we'll hear from you, Mr. Robinson.

STATEMENT OF WILLIAM A. ROBINSON, DIRECTOR, DHL CORP.

Mr. ROBINSON. I'm very pleased to testify today on behalf of DHL Corp.

In case you are unfamiliar with our company, DHL and its foreign affiliates comprise the world's largest private international courier system. We transport time-sensitive blueprints, intracorporate memorandums, checks, bills of lading, shipping documents, data processing programs, and other commercial media for most of the world's companies and governments. DHL serves more than 260 cities in 65 countries.

I would like to begin by commending the subcommittee on holding these hearings. Postal policy is not the most glamorous issue. There is no immediate crisis which will guarantee headlines for the subcommittee's work. And there are substantial interests which have grown comfortable with the current law. Nonetheless, all would agree that a sound governmental policy toward documentary communications is extremely important to the long-range health of the Nation's economy. Most would agree, as well, that many of today's postal policies—in particular the postal monopoly—are outdated and in need of review by Congress. In short, we believe that the subcommittee is today undertaking the sort of difficult and unheralded work which represents Congress at its very best. In the same spirit, I would like to state that DHL will be glad to assist the subcommittee in any way we can.

In our response to the subcommittee's questionnaire, we have provided detailed answers to many of the points raised in these hearings. While I would be happy to address any questions regarding any of our written submissions, with your permission, I would like to begin with a short statement summarizing our views with respect to the international postal monopoly. I believe that it is on this topic that our company may have something unique to add to the subcommittee's hearings.

The postal monopoly over domestic letters and the postal monopoly over international letters pose very different policy questions. The main differences may be summarized as follows:

First, international postal service, far more than domestic service, is totally inadequate to modern commercial needs and is very poor compared to private alternatives.

Second, since the enactment of the current postal monopoly law in 1872, international commerce has become vastly more important to the United States. Moreover, the type of international business conducted by American firms is highly dependent upon good worldwide communications.

Third, the U.S. Postal Service has no control over the quality of international postal service. It cannot control foreign post offices, many of which are beset by problems not faced by the U.S. Post Office.

Fourth, unlike the domestic postal monopoly, the international postal monopoly is not an important generator of U.S. postal revenues.

In a nutshell, the main problem with international postal service is that it is inadequate, at least for the purposes of international business. In 1978, DHL retained an outside consultant to review international air mail from New York City. The world postal system took about 3½ days to deliver a letter to Europe, more than a week to the Far East, and more than 2 weeks to the Middle East. Although this study is now 4 years old, there is no reason to believe that the worldwide postal situation has improved.

The deficienies of the worldwide postal system are especially serious for the United States because America's business dealings with the rest of the world have mushroomed in the last decade. Its main products—expertise and high technology goods—are highly dependent upon fast and reliable worldwide communications. Between 1970 and 1979, total U.S. exports of merchandise increased from $43 to $182 billion while American assets abroad increased from $166 to $513 billion. In recent years, the Treasury Department has estimated that fully one-third of all American corporate profits are derived from international activities of American firms.

For the American businessman abroad—whether trying to establish foreign banking relations, to manage overseas construction projects or to sell highly sophisticated aircraft—the need for good communications to and from the United States is self-evident. As one would expect, given the increase in international trade, communications between the United States and the rest of the world have exploded. Outbound overseas telephone calls jumped 262 percent in the 6-year period from 1972 to 1978.

Despite the dramatic increase in international trade and, especially, international telecommunications, international postal communications have actually declined in the last few years. During the same period that telecommunications jumped 262 percent, the number of international air mail pieces registered a 12-percent decline.

In short, the worldwide postal system has completely failed to keep pace with the communications needs of U.S. international commerce.

I hasten to add, however, in fairness to the U.S. Postal Service, that the inadequacies of the international post office are largely the result of factors beyond the control of the Postal Service. The Postal Service must work with foreign post offices that are frequently not up to American standards. In some parts of the world postal officials do not read English and do not make local deliveries. In other parts of the world, postal strikes are not uncommon. Countries suffering postal strikes in recent years include Australia, Canada, England, Iran, Ireland, Italy, and Israel. The fact that all international postal documents are handled by at least two post offices makes control and tracing difficult. As if these intrinsic problems were not enough, an international treaty limits ordinary international letter delivery to packages weighing 4½ pounds or less. The international mails are thus closed to a large percentage of blueprints, specifications, financial forms, shipping papers, and other international business documents.

The world post office's inability to keep up with the escalating demand for rapid and reliable international communications has, of course, led to the development of private international delivery services. Examples include DHL and Purolator and airline express services such as Pan American's "Clipper Pack." These private companies do not, in truth, compete with the national post offices. We do what they do not do.

The vital importance of rapid and reliable private international document delivery services to the U.S. economy may be contrasted with the relative insignificance of international letters to Postal Service's revenues.

Unlike the domestic monopoly, the international postal monopoly generates virtually no extra postal revenues. In fiscal 1980, international air mail accounted for only about 2½ percent of postal revenues and ½ of 1 percent of the mail volume. International surface mail amounted to an additional 1 percent in revenue and ½ of 1 percent in volume. Moreover, as a practical matter, even with a total exemption for international letters, only a small fraction of this small fraction of postal revenues would be diverted to private carriage. After all, only the Postal Service has a universal pickup and delivery network and only the Postal Service has a special relationship with the foreign post offices.

In view of these special considerations affecting the international postal monopoly, we suggest that the public interest would be served by immediately and statutorily abolishing the outdated monopoly over international letters.

Such a reform in the United States would cause no adverse impact on the Postal Service. It would tend to improve the vital flow of international documents. Most importantly, such a step would stimulate other nations of the world to reconsider the appropriateness of their international postal monopolies. As we have seen in many other economic initiatives, a good example in the United States exerts a powerful and persuasive influence upon other countries. Thank you.

Senator SYMMS. Thank you very much, Mr. Robinson, for a very, very excellent statement. I think that's a very interesting proposal which you make on just abolishing the part of the monopoly that would not pose any immediate threat or perceived threat, I should say, to the postal systems. It will be interesting when Mr. Bolger comes and we might ask what his opinion of that would be.

Ms. Brennan.

STATEMENT OF PATRICIA H. BRENNAN, ROCHESTER, N.Y.

Ms. BRENNAN. P. H. Brennan Hand Delivery Co. was founded in March 1976 to provide fast, dependable hand delivery service to the business and legal communities of Rochester, N.Y.

This service provided guaranteed same-day delivery of any and all materials entrusted to its carriers at a cost of 10 cents per envelope. The system was so designed that it was possible to send a message and receive a written reply the same business day.

The cost of such a service was well within the range of small businesses and legal firms who would not otherwise be able to effectively compete with larger firms who could afford the luxury of a full-time staff messenger.

Based on the low-operating costs and the availability of excellent manpower, the concept could easily be expanded to include the business districts of any urban center, thus providing the essential timeliness necessary to the efficient running of these concerns.

Citing the current postal monopoly, insured by the Private Express Statutes, business is hampered by the time waste incurred in using the mails. Businesses are now forced to employ "special messenger" systems that exist only under exemptions to the Private Express laws.

In the history of P. H. Brennan Hand Delivery—2½ years—no letter was ever lost, misplaced, misdelivered, or delayed. The Service carried upward of 3,000 letters daily to all parts of Rochester, N.Y.

At the time of the forced closing of P. H. Brennan Hand Delivery in August 1978, it was a self-sustaining, money-making, tax-paying employer of five persons. These 5 people covered the same geographic area, carrying more pieces per person, than 12 U.S. Postal Service letter carriers.

The P. H. Brennan Hand Delivery Service demonstrated unfailing reliability as illustrated by its fast and phenomenal growth and the fact that its hand-date cancellation was accepted by the local court system as evidence of timely service.

When Federal law attempts to regulate the affairs of business and restrict private competition in areas where it is unable to provide adequate public service, it becomes necessary to repeal or amend those laws which are contrary to the public good.

I sit here and I feel somewhat like an endangered species in that I am the only extant member of a private express company still around, and perhaps I'd like to say simply that private express companies can exist; they can exist profitably; they pay taxes into the general fund and, unlike the Postal Service, do not deplete from the general fund. They provide jobs for people. The sanctity of the mail has been assured. Nobody but the Federal Government would be interested in what's in the mail and I could only think with amusement this morning when the Chairman of the Postal Rate Commission stated that the private companies would have to provide equal service to the Postal Service.

If we provided equal service, we couldn't exist. It is that key, that we must provide better service, more timely service, more cost-competitive service, that makes private carriers as important as they are to the future of hard copy delivery and there still will be a market for legal documents and original signatures that are timely and must be delivered within a business day and it's unfortunate that the Postal Service cannot provide that kind of public service.

Last, I draw the subcommittee's attention to the comments of the U.S. Department of Justice, March 13, 1979. Their antitrust division addressed all of these issues that we're discussing today and came up with a report, again dated March 13, and I think that you will find that even the Justice Department feels that some areas of the private express statutes may in themselves be illegal and, second of all, should be repealed. Thank you.

Senator SYMMS. Thank you for a very, very excellent statement. Could you, just for my edification and for our record's edification, tell me just briefly, what was the process which the U.S. Government used to close you down? What were you charged with?

Ms. BRENNAN. It was very interesting. It was a civil suit where the U.S. Postal Service attempted to get a permanent injunction against our continuing in the service that we had started, and it took them 2½ years to do it. They were on to us approximately 3 weeks after we had started and we did not even know we were in violation of the law. The local bar association and their legal experts could not see that we were a private express company in that what most of what we carried was exempted anyway—blueprints, checks, legal documents, time-sensitive materials. And why they decided to pursue it, I'm not sure. Maybe to make an example of these urban carriers.

Senator SYMMS. Let me get this straight. If a giant company, a huge corporation that did a lot of business in Rochester, N.Y.—like, is Westinghouse up there?

Ms. BRENNAN. Kodak or Xerox.

Senator SYMMS. OK. So a huge corporation like that, where they could hire their own person and put them on the payroll, they're exempted?

Ms. BRENNAN. Absolutely, perfectly legal. You may have your own private messenger.

Senator SYMMS. But then, if a small company that couldn't afford this wants to hire you as a service——

Ms. BRENNAN. It can't be done because we're a private express company.

Senator SYMMS. You can't do it.

Ms. BRENNAN. If I work for you exclusively, that's fine. But if I work for a variety of Senators then I become a private express company which the private express statutes prohibit. So it's all or nothing. I could work for you exclusively, but I can't work for a variety.

Senator SYMMS. Well, how much money do you suppose the U.S. Government spent to close you down?

Ms. BRENNAN. A fortune, I hope.

Senator SYMMS. A fortune?

Ms. BRENNAN. A fortune.

Senator SYMMS. Did they have a lot of lawyers up there? Where did they come from? The antitrust division?

Ms. BRENNAN. No. The Justice Department was on our side. Most interesting, the postal unions who had a lot at stake in this particular situation, they sued as friend of the court for the Government. The Postal Service did not feel the Justice Department was adequately handling their case, so they intervened. It got messy and it took 2½ years, and I imagine it was terribly expensive.

Senator SYMMS. And did you have to incur a great deal of expense yourself to try to fight them off?

Ms. **Brennan**. No, because the legal community of Rochester, N.Y. banded together and supported us with the best constitutional lawyers that they had, and they did a marvelous job. So it didn't cost—I believe the term is pro bono. They did for the public good because they thought these services were necessary for the legal community.

Senator **Symms**. Who's fulfilling these services now?

Ms. **Brennan**. The Postal Service is attempting to. There are no private carriers.

Senator **Symms**. Have they instituted any daily delivery in Rochester?

Ms. **Brennan**. No, sir.

Senator **Symms**. Just the regular mail?

Ms. **Brennan**. Yes, sir.

Senator **Symms**. Well, that's very, very interesting. I'm happy to hear the Justice Department was on your side. At least that's more consistent because, as you know, the taxpayers of this country spend millions of dollars to pay the lawyers at the Justice Department to try to go out and enforce laws prohibiting price fixing and monopolistic practices. So it certainly would be an irony if they had to hire the same ones to go and prosecute the private express companies.

Ms. **Brennan**. Absolutely. This statement is from the antitrust division and I'm convinced that some of those lawyers were also in on the other side, too. So they were playing both sides of one point.

Senator **Symms**. What would you think would happen if we extended your concept to rural areas?

Ms. **Brennan**. We would have an excellent postal service in the United States.

Senator **Symms**. What would happen if we would do as I asked Mrs. Steiger earlier—if we just did this piecemeal. In other words, there's a great deal of fear, as you know—and every time you mention "repeal the monopoly," everybody has a flutter and their blood pressure goes up and everybody says it would ruin the Post Office. What would happen, in your opinion, if we just do away with the monopoly on international letters for the first year, and in the second year do away with the monopoly in rural areas? Would P. H. Brennan Co. go out and get the rural service?

Ms. **Brennan**. Sure. There's no reason to stop it. Why P. H. Brennan? Why not United Parcel Service? Why not General Motors? Why not any major corporation who wants to pursue that particular service? And the interesting thing is, once we have competition, the competition sets the standards and you would find those standards in the prices. You'd get better service at lower prices for the day-to-day delivery of materials.

Somebody made the analogy, What if the automobile corporations were under Government monopoly. Can you imagine what you would be driving?

Senator **Symms**. Edsels.

Ms. **Brennan**. I don't even think they would be that well designed.

Senator **Symms**. Horses?

Ms. **Brennan**. Probably. But the whole idea is, when you have products and services, and people want it—Milton Friedman—they do get better. A free market is the idea.

Senator **Symms**. So you're saying freedom is really the issue here.

Ms. BRENNAN. Free market. I think open competition. Then you would not get a sluggardly lackluster Postal Service who really doesn't care. And that's another thing. Private carriers are personally responsible. Every letter that I carried, I was solely responsible for, whether it was a $30,000 check or a bill of goods. However, if you ever try to trace something through the Postal Service, there is no personal responsibility. I mean, they will put a tracer on a letter, but if you've lost it, that's too bad.

Senator SYMMS. Did you ever lose one single letter?

Ms. BRENNAN. Not one, and never late.

Senator SYMMS. Never what?

Ms. BRENNAN. Never late.

Senator SYMMS. Never late and never lost one?

Ms. BRENNAN. No; and we operated on days when the Postal Service did not. They had to close down because of snowstorms which we do get periodically in Rochester. We were on foot. We just climbed over the snow. We didn't have to drive through it. And the business community was served that day by the one and only Postal Service that was in operation that day.

Senator SYMMS. Well, a remarkable story.

Mr. Robinson, do you have anything to add?

Mr. ROBINSON. No, I don't think so.

Senator SYMMS. Well, I certainly wish to thank you. We may have some more questions. I appreciate those of you who came in from out of town to make this hearing. I'm only sorry more of my colleagues weren't here today. I hope that we will be able to expand on this issue because I do believe that there is a point here. What I would like to bring about at least is a healthy discussion on some of the ironies of how it is that we got there. I think that the history of the Postal System that was presented to us this morning by Professor Fuller brought very helpful information to our hearing as well as the testimony from the members of the Postal Rate Commission. I thank all the witnesses on the telecommunications and the new technology. So, I think this will be very helpful and I would look forward to continuing to pursue this issue in a very rational light just to bring out what some of the facts are and what the American people may or may not be depriving themselves of. I think, Ms. Brennan, your testimony certainly ought to strike the hearts and minds of all people of good will who realize that you actually were charged with a violation of the law for simply trying to engage in a legitimate entrepreneurial activity providing a service that is not being provided.

Ms. BRENNAN. By the way, Senator, it is a felony.

Senator SYMMS. It's a felony?

Ms. BRENNAN. Yes.

Senator SYMMS. Were you convicted?

Ms. BRENNAN. No. It was a civil suit. That's another interesting thing. It can go either direction at the discretion of the judge. It can either be civil or criminal, and at 21 years old when I was doing this I don't think they wanted to pursue the criminal.

Senator SYMMS. How did you get the idea in the first place?

Ms. BRENNAN. Oddly enough, I got a letter from Idaho of all places that was 2 weeks getting from Pocatello, Idaho, to Rochester, N.Y., and I decided there has to be a better way.

Senator **Symms**. I have a very good friend and supporter of mine and intellectual godfather named Ralph Smeed, who puts little stickers on his letters. They say, "Don't vote. It only encourages them," in reference to politicians. The other one says, "Repeal the postal monopoly" and then it goes "* * * and give your postman a raise." And I think the postal worker himself says, "Oh, you're trying to get my job," which is really not the case. If this were to come about they would have the opportunity to go to work for U.S. Postal Service or P. H. Brennan.

Ms. **Brennan**. And private enterprise would draw on the experienced personnel, not the deadwood, but we would draw on the people who had proven themselves to be efficient at what they do. And that's another nice side effect of private enterprise.

Senator **Symms**. Thank you very much. The subcommittee will stand in recess until Monday morning at 10. Thank you.

[Whereupon, at 12:35 p.m., the subcommittee recessed, to reconvene at 10 a.m., Monday, June 21, 1982.]

[The following information was subsequently supplied for the record:]

RESPONSE OF HON. JANET D. STEIGER TO ADDITIONAL WRITTEN QUESTIONS POSED BY SENATOR SYMMS

POSTAL RATE COMMISSION,
Washington, D.C., September 3, 1982.

Hon. STEVEN D. SYMMS,
Russell Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR SYMMS: Your interest in further views on the private express statutes is appreciated. Enclosed you will find responses to the questions you sent on this subject and related issues.

In transmitting this set of responses, it must be acknowledged that in many intances, final answers (if in fact there are any) would require considerable additional research and discussion. Indeed, while it may well be that more thought would have to be given to the application of theoretical economics to these issues, it seems that, at a minimum, the purely postal aspects, especially operations and marketing, are extremely complex and require more detailed attention before conclusions can be reached with respect to the consequences of repealing the private express statutes. Of course, these areas for study are recommended only by way of example; undoubtedly others who are also familiar with postal matters could suggest additional aspects of the postal system that warrant particular attention in any review of the postal monopoly.

It is with this in mind that the enclosed comments are sent: accordingly, definitive conclusions are not always reached, but a sincere attempt has been made to provide information and insights developed by the Commission in its role as an expert agency.

Please contact me if I can be of additional assistance.

With kind regards,

JANET D. STEIGER, *Chairman.*

Enclosure.

Question 1. This Postal Service statement [regarding whether any segment is generating revenues greater or lower than its expenditures] is of fundamental importance because, if true, it would insulate the Postal Service from any meaningful cost analysis. Surely, there must be some reasonable means of deciding whether various segments of postal operation are self-sustaining or not. Could you please comment?

Answer. I think the Postal Service's statement reflects the fact that its accounting practices are oriented toward developing cost segments for postal ratemaking, which focuses on the four major classes of mail, and for management and control and not on small post offices or suburban delivery or other aspects of postal operations that some might consider identifiable segments.

It might, in some cases, be possible to develop costs for the latter although, as we note below, total costs for rural service as a separate service or "segment" probably cannot be reliably defined with current data collections. We must, however, point out that "slicing the orange" in this manner differs markedly from slicing it for current ratemaking purposes. At the outset, it would be necessary to reach agreement on a definition of rural service, which is a term much broader than the existing rural carrier cost segment that is used in ratemaking. At a minimum, I think a satisfactory definition of rural service would have to include—and quantify—not only the strictly operational aspects of our postal system, but also certain demographic aspects connected with reaching a satisfactory definition of what is "rural." (We discuss this problem further under Question 5.) Whether a single such set of definitions would satisfactorily permit your inquiry to be answered in all its ramifications is not, of course, clear. As mentioned above, current data systems are oriented along operational rather than demographic lines; they are used, for example, to develop cost information by size of post office (an operational distinction), but not according to whether the office is in a rural or urban area (a demographic distinction).

In principle, it may be possible to arrive at a useful answer by an appropriate combination of:

(1) Existing data which may or may not be presented in a form yielding answers to this question—because current needs do not require such presentation;

(2) Adaptation of existing data collection mechanisms to generate variant data bases specifically directed to answering this question; and

(3) An unavoidable residuum of special studies (which could be extensive).

A list of the twenty cost segments currently used in postal ratemaking follows. I believe the Service's systems for accumulating and recording data related to its twenty cost segments have almost always been found reliable and that the existing mechanisms for postal ratemaking and classification insure that the Postal Service is not immune from meaningful cost analysis; proceedings at the Commission involve presentation of evidence by witnesses, discovery, cross-examination and oral argument on many aspects of Postal Service finances. Still, the extent to which these data are useful in determining the cost of a particular segment or groupings of postal operations—such as rural service—is difficult to assess; different assumptions and objectives are involved once we depart from the context in which the data systems were designed to function.

COST SEGMENTS

I. Postmasters
II. Supervisors and Technicians
III. Clerks and Mailers, CAG A–J
IV. Clerks, CAG K
V. (Vacant—formerly Clerks, Mobile Units)
VI. City Delivery Carriers, In-office
VII. City Delivery Carriers, Out-of-office
VIII. Vehicle Service Drivers
IX. Special Delivery Messengers
X. Rural Carriers
XI. Custodial Maintenance Service
XII. Motor Vehicle Service
XIII. Miscellaneous Operating Costs
XIV. Purchased Transportation
XV. Building Occupancy
XVI. Supplies and Services
XVII. Research and Development
XVIII. Administration and Regional Operations
XIX. Support Services
XX. Depreciation and Service-Wide Costs

Question 2. What criteria does the Postal Service use to determine whether to close a post office? Surely these criteria provide a measure of the profitability of segments of the service?

Answer. The criteria the Postal Service uses to determine whether to close a post office are those specified in the 1979 amendments to the Postal Reorganization Act. They are:

(A) the effect of such closing or consolidation on the community served by such post office;

(B) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

(C) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

(D) the economic savings to the Postal Service resulting from such closing or consolidation; and

(E) such other factors as the Postal Service determines are necessary. 39 U.S.C. § 404(b)(2) (Supp. 1979).

In our review, we decide the sufficiency of the Postal Service's treatment of each statutory consideration; that is, whether the Postal Service has made, on the record, the findings it is required to make and whether those findings are supported by substantial evidence on the record. My response to Question 8 discusses the Commission's role in more detail, but I would like to briefly point out that with respect to small post office closings, we function essentially as a reviewing court; correspondingly, we cannot prevent a closing, but can remand to the Postal Service for reconsideration of the applicable criteria.

While the term "profitability" is not used in the criteria set out above, the phrase "economic savings" appears in (D). In practice, the Service generally compiles, and the Commission reviews, information relating to "economic savings" in terms of employee wages and salaries, rent, utilities, star route costs, receipts from postage and fees, etc., at the individual post office. (See Attachment A for copies of PS Form 4920.)

This method of determining economic savings aims to estimate the net systemwide savings from closing a post office and substituting a cheaper form of service. It is not intended to show whether the office, considered alone, brings in more revenue than it costs to run. Indeed, the answer to this question would depend on how one decides to allocate a proper share of indirect costs—such as administrative costs of the Management Sectional Center—to the office. This is a matter likely to be controversial even among costing experts.

ATTACHMENT A

U.S. POSTAL SERVICE

POST OFFICE CLOSING OR CONSOLIDATION PROPOSAL

Fact Sheet

1. DATE PREPARED 02-06-78

2. POST OFFICE
a. NAME Lone Grove
b. STATE TX
c. ZIP CODE 78646
d. MSC Austin TX 78710
e. COUNTY Llano

3. PROPOSAL
Close post office and provide service by Star Route box delivery and through new facility at Bluffton, 5.3 miles from Lone Grove.

4. POSTMASTER
a. NAME Mrs. Kathryn C. Kerr
b. LEVEL 2
c. APPOINTED 09-30-63
d. RETIREMENT STATUS N-1 Eligible by age. (72 Years) Will meet years of service requirement on 09-30-78

5. HOURS OF SERVICE
a. STANDARD 3
b. PROVIDED 8

6. NUMBER CUSTOMERS SERVED		7. DAILY VOLUME		
		TYPES OF MAIL	REC	DISP
a. GENERAL DELIVERY	0			
b. PO BOX	25	a. FIRST CLASS	25	15
c. CITY DELIVERY	0	b. NEWSPAPER	1	0
d. RURAL DELIVERY	0	c. PARCEL	0	1
STAR ROUTE BOX	0	d. OTHER	0	0
TOTAL	25	e. TOTAL	26	16
RECEIVING DUPLICATE DELIVERY SERVICE				

8. TRANSACTIONS (Daily average) 11

9. QUARTERS
a. RENTAL (Dollars per month)
(1) ALLOWANCE $ 42.84
(2) AGREEMENT $
b. EXTENDED LEASE
(1) DOLLARS PER ANNUM $
(2) EXPIRES
c. USPS MUST VACATE BY (Date) N/A
d. OTHER QUARTERS AVAILABLE NO

10. SCHOOLS IN SERVICE AREA
None
Nearest school is in Llano, 7.8 miles southwest of Lone Grove.

11. BUSINESSES IN SERVICE AREA
Postmasters limited grocery stock which will close.

12. FINANCES
a. RECEIPTS $ 903.90
b. EXPENSES $ 6,148.78 N-2
c. FY 77

13. NEAREST POST OFFICE
a. NAME N-3 Bluffton, Texas
b. MILES AWAY 5.3
c. LOCKBOXES AVAILABLE 200

14. REMARKS
N-1 Postmaster plans to retire when she reaches service requirements on 9-30-78
N-2 Expenses include salary, rental allowance and operating cost.
N-3 The new facility at Bluffton, Texas occupied 11-1-76 was designed to serve customers now served by the Lone Grove office.

PREPARED BY
a. PRINTED NAME AND TITLE Chester H. Dorman P.O.A.
b. SIGNATURE Chester H. Dorman

Item #14

ATTACHMENT A

DATE PREPARED
04/16/80

STATE: TX | ZIP CODE: 77517

COUNTY: Galveston

Arcadia

Houston

Consolidation with Alta Loma Post Office

			HOURS OF SERVICE
Vacant	b. LEVEL EAS-15	c. APPOINTED	a. STANDARD 8½
			b. PROVIDED 7½

NUMBER CUSTOMERS SERVED		DAILY VOLUME		
		TYPES OF MAIL	REC	DISP
DELIVERY	20	a. FIRST CLASS	600	580
	430	b. NEWSPAPER	50	50
DELIVERY	---	c. PARCEL	25	25
DELIVERY	640	d. OTHER	200	180
ROUTE BOX				
TOTAL	1090	e. TOTAL	875	835
RECEIVING DUPLICATE DELIVERY SERVICE	30			

ACTIVE (average)	RENTAL (Dollars per month)		EXTENDED LEASE	
	(1) ALLOWANCE	(2) AGREEMENT	(1) DOLLARS PER ANNUM	(2) EXPIRES
99	$	$	$ 2,100	07/31/82
	MUST VACATE BY (Date)		d. OTHER QUARTERS AVAILABLE	

SERVICE AREA	11. BUSINESSES IN SERVICE AREA
None	20

	a. RECEIPTS	b. EXPENSES	c. FY
	$38,722	$ 30,202	79

NEAREST POST OFFICE

	b. MILES AWAY	c. LOCKBOXES AVAILABLE
Alta Loma	4	724

PREPARED BY

NAME AND TITLE	b. SIGNATURE
I. A. Bosley, Retail Services Officer	I A Bosley

4920

Question 3. What criteria does the Postal Service use to decide whether or not to serve a rural route itself or contract it to a contract carrier? Why cannot more of the routes be contracted in exactly the same manner.

Answer. Since it is a well-settled principle that the Postal Reorganization Act was intended to give postal management broad freedom to make internal administrative choices (*see*, e.g., *Buchanan* v. *U.S. Postal Service*, 508 F. 2d 259, 262 (5th Cir., 1975), the precise criteria the Postal Service uses to decide between rural service or contract service are not within the Commission's knowledge; however, the Domestic Mail Manual may be instructive in that it points up the differences in function between these types of routes. Thus section 156.21, dealing with rural routes, provides:

"A petition signed by the heads of families desiring establishing of a rural route shall be submitted to the postmaster of the post office from which delivery service is desired, or to the Postal Service. . . . The general rule is that a newly established route should serve an average of at least one family per mile. Unusual conditions such as volume and type of mail will be considered. On routes of less than 10 miles, an average of at least 6 families per mile should be eligible for service before a route is established."

In contrast to this emphasis on house-to-house *delivery*, section 157.1 states that highway contract service provides "for the *transportation* of mail between post offices or other designated points where mail is received or dispatched." (Emphasis supplied.) These applicable regulations would lead one to believe that postal managers consider highway contract carriers when the major need is mail transportation, not simply the traditional Postal Service function of household delivery.

Establishment of a rural route or highway contract route per se generally is not within the Commission's jurisdiction, and thus the reasons for the choice are generally outside the Commission's knowledge. That being so, we are not in a position to estimate how far the Postal Service could extend the employment of either of these media.[1]

Question 4. In general, what is the best method of public funding of services which may be in the public interest but not commercially self-sustaining? An indirect internal cross-subsidy or a direct subsidy appropriated by Congress?

Answer. Since the Commission's statutory role in ratemaking and classification has never included responsibility for determinations regarding the best method of public funding of certain postal services, I cannot offer a definitive answer to Question 4, but I think the reports of the two major commissions Congress created to review national postal policy provide some insights on the funding issue that might be of interest to the Subcommittee.

In brief, the Kappel Commission (which preceded the 1970 Postal Reorganization Act) recommended, among other things, that if there was to be a subsidy, its size should be fixed by Congress; that the policy on which users would be subsidized should be determined by Congress; and that specific subsidy rates should be set by the Post Office pursuant to Congressional guidelines. It also recommended that postal subsidies be paid by the general mail user and limited to a fixed percentage (e.g., three percent) of the postal revenue requirements.

The Commission on Postal Service, which issued its findings in 1977, said:

"The ability to place a dollar value on public benefits, such as enhanced social and intellectual communication, is beyond present capacity. It is also extremely difficult to determine the costs associated with providing services that are in 'excess' of those that might be commercially viable because the level of service that is commercially viable is itself a matter of judgment in the absence of extensive market research. For example, if present levels of rural delivery are in 'excess' of mailer needs, before determining the cost of the 'excess service' one must determine how much of the present service is 'in excess.' Only then can a price be put on the public service aspect."

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[1] It is true that in certain limited circumstances—generally small post office appeals pursuant to section 404(b) of title 39—the Commission might be required to review Postal Service rural route or star route deteminations in the context of whether the record findings comport with the applicable statutory criteria. In Commission Docket No. A81–1 (Decided July 1, 1981), certain persons served by the Dalton, Georgia post office appealed a Postal Service decision that, among other things, would have transferred fifteen Dalton area families from general delivery to highway contract (star route) carrier. The Commission found that the administrative record which addressed the type of postal services the highway carrier would provide and the anticipated economic savings, adequately supported the Postal Service's decision. However, in an earlier decision (Docket No. A78–1. Commission Order No. 208, issued August 16. 1978), the Commission found that it had no Section 404(b) jurisdiction over a Postal Service decision to consolidate rural delivery routes in Gresham, South Carolina. The court decision most relevant to Commission's conclusion on this jurisdictional point is *Martin* v. *Sloan* 432 F. Supp. 616 (W.D.N.C., 1977) in which the Service's motion to dismiss petitioner's complaint regarding rural route consolidation in Morven, North Carolina was granted when the judge found that ". . . nothing in Title 39 appears to require notice or hearing for those affected by rural route consolidation nor to empower this court to review a decision to consolidate." 432 F. Supp. at 617.

Economic theory can also furnish a perspective on this question: if we evaluate the two alternatives described from the standpoint of theoretical economic efficiency, it is virtually axiomatic that a direct subsidy funded by a general tax is preferable to an indirect internal cross-subsidy. That is, the same subsidy (in terms of dollars) can be provided directly at less social cost than an indirect cross-subsidy.

However, I believe a postal subsidy—its desirability and the amount or form it might take in light of our national budgetary priorities—is a matter of public policy for Congress and the Administration.

Question 5. Does the postal monopoly support postal service to small towns? Exactly how?

Answer. As discussed in more detail in my testimony, the Commission analyzes costs and revenues in terms of the four major classes of mail, not in terms of service to small towns or urban areas. Consequently, we cannot say whether—or to what extent—the postal monopoly, in itself, supports service to small towns.

In order to answer the questions posed here, one would need to address, at a minimum, the following questions.

1. What is a "small town"?

2. How much money could the Postal Service save if it ceased or reduced service to small towns? In particular, are we to assume that absent the monopoly the Postal Service would cease to serve these areas, leaving them dependent on private mail services, or that it would reduce the degree of service, retaining all or part of the traffic but in effect shifting part of the cost of service to the patron?

3. How much revenue does the Postal Service obtain from mail sent to and from patrons in small towns?

4. Does the Postal Service obtain significant revenues in excess of attributable and assignable costs from mailers of matter other than letters (e.g., periodicals or parcels)?

With respect to the first question, certain costs that at first glance might appear to benefit small towns actually benefit suburban areas as well. For example, small post offices sometimes exist in the suburbs of large cities. Similarly, some rural carriers operate in suburban areas, not in sparsely populated rural areas. One cannot obtain a reliable estimate of the cost of serving small towns simply by adding the costs in segments and components such as "Postmasters. CAG LL Offices," "Clerks, CAG K Offices," or "Rural Carriers." Other segments contain costs some part of which must be associated with serving small towns—for example, those relating to transportation—but what that part might be cannot be determined reliably from current data.

With respect to the second and third questions, one would need to know whether the costs that could be avoided by abandoning service to small towns—and we have suggested above the difficulty of defining these costs reliably—exceed the revenues obtained from postal patrons in small towns (or from mail sent to them, which would not be sent if they received no service) before one would have any reason to believe that small-town service is being subsidized by anyone. These questions also point up the need to know whether in some small town markets the Postal Service might arrive at a compromise between service and price that would let it retain traffic without monopoly.

With respect to Question 4, one would need to eliminate the possibility that the Postal Service makes a per-piece positive margin on nonletter mail before one could conclude that the postal monopoly alone supports Postal Service to small towns.

Question 6. Is there any reason why a direct subsidy system like the one used to support small town air service could not also be used to support rural postal service? Could the Commission prepare a rough draft of the legislation needed so that the subcommittee could have some idea of what it might look like?

Answer. If Congress decided to fund rural postal service with a direct subsidy, I think developing a satisfactory definition of rural service—and arriving at a price tag—pose the most serious difficulties; I do not think any other legal or administrative problems would be serious threats to implementation.

The Commission staff is familiar with some of the legislative models that have been developed for transportation subsidies and I would be happy to have them discuss these and other related issues with you in more detail.

Question 7. If Congress were to employ a direct subsidy to support rural postal service, how much would it cost? Do you think it would be feasible to fund this through a trust fund established by an excise tax on all document carriers, public and private? Would this more or less desirable than funding from general appropriations?

Answer. As I indicated in my response to Question 5, many preliminary questions need to be answered before an estimate of the size of a rural subsidy can be made. And while I suppose that a trust fund supported by an excise tax on document carriers is a theoretically plausible option for funding a subsidy, the Commission's expertise generally does not include familiarity with the tax policy questions it raises. Thus, other persons or organizations knowledgeable in tax matters are probably in a better position to provide the Subcommittee with relevant information. Apart from the tax issues involved, I think the trust fund concept raises some problems of administration. One problem, for example, is that the total amount of the trust fund might be expended even if it later turned out that a smaller subsidy could have supported the agreed-upon level of rural service. Conversely, a tax on one activity for the support of a different activity may run into a "mismatching" problem if revenues from the tax fall short of the current needs of the supported activity. If the latter is essentially a capital investment program—for example, highway construction—it may be possible to restructure one's expenditure priorities and timetables to match available funds. It seems likely, though, that this would be less possible if the supported activity's funding needs are mostly for current operations that cannot be postponed.

Question 8. To what extent, in practical terms, does the law and the Commission prevent the postal service from closing post offices that are losing money?

Answer. Section 101(b) of the 1970 Postal Reorganization Act provides:

"(b) The Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating at a deficit, it being the specific intent of the Congress that effective postal services be insured to residents of both urban and rural communities."

Pursuant to Section 404(b), the Postal Service must consider, among other things, whether its determination to close a post office is consistent with the fundamental policy set out above.

The Commission's responsibilities with respect to reviewing appeals from closings or consolidations are described in Section 404(b)(5). It provides:

". . . . The Commission shall set aside any determination, findings, and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law;

"(B) without observance of procedure required by law; or

"(C) unsupported by substantial evidence on the record.

"The Commission may affirm the determination of the Postal Service or order that the entire matter be returned for further consideration, but the Commission may not modify the determination of the Postal Service. . . ."

In practice, the Commission decides the sufficiency of the Postal Service's treatment of statutory consideration; that is, whether the Postal Service has made, on the record, the findings it is required to make and whether these findings are supported by substantial evidence on the record. This is analogous to the traditionally limited scope of review exercised by appellate courts sitting to review agency decisions. Like those courts, the Commission is restricted to the administrative record made by the agency and does not conduct its own fact-finding investigations or hearings. In addition, we may not return a case to the Postal Service because in our judgment a different result might equally well or better comport with the record evidence. The action we take must follow from our application of the same statutory standards of review that are used by a Court of Appeals in administrative agency appellate proceedings. 5 U.S.C. § 706 (1977).

Thus, the law clearly stipulates, among other things, that the Postal Service's determination to close a post office is not to be based solely on whether the office is operating at a deficit. It also provides that the Commission's review is to include an inquiry into the adequacy of the Postal Service's findings with respect to the policy of providing effective and regular postal services to areas where post offices are not self-sustaining and into the economic savings to be derived from the closing.

Under the standards of review in the statute, the Commission must affirm the determination to close a post office unless the inquiry described above discloses inconsistency with the law. Even then, by returning a determination to the Postal Service, the Commission does not rule that the Postal Service may not close the office at issue, but rather that it must follow the statute before closing it.

Question 9. With respect to the Postal Service's E-COM service, could you identify exactly what aspects of this service would, in your opinion, not be provided by private telecommunications companies? If there is a profit to be made, why would not private companies provide such services? If there is no profit, why would the postal service seek to provide the service?

Answer. The characteristic features of the E-COM service—that is, those operations which distinguish it from ordinary first-class letter mail—could physically be performed by private firms; indeed, a number of such firms are now doing so. The operations involved are the reception of messages in electronic form (often condensed into a common text and a list of addresses and text inserts), the explosion of the text into complete messages, printing, and enveloping. It is our understanding that some telecommunications firms are offering services in which these functions are performed and the resulting letters are then entered into the first-class mailstream. Examples include Western Union's Mailgram II, Tymnet's Tymegram and one version of Graphnet's Faxgram.

The Commission does not regulate telecommunications firms, but we would assume that as business-managed firms the companies offering them hope to do so at a profit. Whether particular operations in the sequence are profitable or not, of course, would depend on how one allocated costs within the electronic mail undertaking as a whole. (This would be true for either the Postal Service or the telecommunications firms offering competing services.)

Questions 10–11. Does the postal monopoly allow the Postal Service to charge more in certain areas or for certain types of service than it could in the absence of the postal monopoly? What precisely are the areas and the services?

How much is this price increase per letter? How much in total? If you cannot give an exact figure, how about an order of magnitude? 100 million dollars per year? 1 billion? 10 billion?

Answer. Pursuant to its status as a type of regulated utility, the Postal Service—like most such regulated utilities—has developed groupings and classifications of its service offerings. This practice does not merely reflect its monopoly positions; ease of administration and the convenience of the customer are certainly especially valid considerations. The practical result—that the rate actually reflects an "averaging" of the charges for the group or class of customers deemed to be similarly situated—essentially expresses the economic theory that existence of monopoly power always entails an ability to "overcharge" some consumers and to subsidize others.

Economic theory also holds that an unregulated, profit-maximizing monopolist has no incentive to do other than overcharge consumers and that a profit-constrained or nonprofit monopolist faces an almost irresistible incentive not only to overcharge, but also to distribute those profits to other consumers. Given this, one might ask whether it is possible (or probable) that the Postal Service is in a position to overcharge mailers of letters. Economic theory predicts that it could; accordingly Congress added several constraints to the Service's monopoly: it charged the Postal Rate Commission with carrying out the detailed mandates of the Postal Reorganization Act's ratemaking sections; it directed the Board of Governors to insure that management actions were in the public interest; and it expressly stipulated that the Postal Service could not close small post offices simply because they were not selfsustaining. These requirements—and others of an even more decidedly noneconomic nature, such as delivery standards, universal service and location of retail facilities for the convenience of the public rather than simply for the most efficient handling of the mails—are interwoven with the existing postal monopoly; I think their pervasiveness suggests that we cannot simply look to a pure economic model for identification of the areas or services where the monopoly allows the Postal Service to charge a higher price than it would in the absence of the monopoly. Given this, I cannot estimate the amount of any "overcharges" associated with the postal monopoly.

Question 12. Suppose the postal monopoly had been abolished in 1970 so that competitors, prices and costs had been adjusted by now to reflect the new conditions. What would have been the effect on the Nation's cost for document delivery assuming that direct subsidy were used to maintain necessary services.

Answer. Economic theory predicts that mail matter previously covered by the monopoly would pay less and other mail matter would pay more, provided the

Postal Service is not an unsustainable natural monopoly. (The testimony Chairman Miller of the Federal Trade Commission presented to the Subcommittee discusses the unsustainable natural monopoly theory in relation to the Postal Service.) Whatever subsidies might have been enacted, to the extent they supported document delivery, would have been a part of "the nation's cost for document delivery." Assuming efficient conduct of the subsidy in the administrative and economic senses, economic theory predicts that total cost for the nation's document delivery would have gone down.

Question 13. If there are some areas or services where, by virtue of the postal monopoly, the Postal Service is charging more than it otherwise could, then could the postal monopoly be eliminated in the other areas without injury to the Postal Service or the Nation's document delivery network?

Answer. Theoretically, eliminating the postal monopoly in areas where the Postal Service is not currently charging more than cost should not have any effect—either beneficial or injurious—unless the Service is significantly less efficient than a potential competitor. In that case, the pure economic model predicts that the partial monopolist would use its power to lower prices to meet competition and raise prices in markets where it retained its monopoly in order to make up for losses in the new competitive markets. As discussed in the response to questions 10 and 11, there are several constraints on the Postal Service's ability to exploit its monopoly position. One of these is the Rate Commission, which has a responsibility to check the tendency to cross-subsidize.

Question 14. What other changes in the law would be required by an abolition of the postal monopoly in these areas? Would there be any need for commission supervision of postal rates and services in areas in which there is competition?

Answer. In addition to the changes in title 39, the criminal code (title 18) and postal regulations would have to be revised to reflect partial repeal of the postal monopoly. In any event, continued Commission oversight would be needed to prevent the Service from improperly cross-subsidizing competitive services with revenues from monopoly services. Competition between entitles would undoubtedly raise complaints about allegedly predatory pricing; as long as these are made, it would probably be fore effective to have an expert agency that could resolve them administratively rather than requiring parties to file lawsuits as their only means of relief. For example, the Federal Energy Regulatory Commission has developed a coherent body of doctrine for dealing with price-squeeze arguments, a not uncommon form of anticompetitive pricing controversy in the regulation of whole electric power transactions. Having these questions handled by FERC rather than the 89 U.S. District Courts promotes uniformity and allows the cases to be decided by an already expert tribunal.

Question 15. Over the long run, is the economy of the United States better served by a postal monopoly or not. If not, how can we abolish it in a manner that will not lead to disruptions of service? What about the postal workers who have built their lives on a particular system? Do we not have an obligation to them to disengage in such a way that is not unfair to them?

Answer. Since the U.S. economy has developed with the government's letter-mail monopoly as a given, this question raises a classic chicken-and-egg problem. For instance, my response to question 4, where I said that economic theory predicts that the benefits of the postal monopoly can be more efficiently and more equitably attained by means of a direct subsidy funded by a general tax, argues in favor of the proposition that the economy is, again theoretically, better served by repeal of the private express laws. But since, as mentioned above, our economy has developed from its earliest days with some form of the private express statutes as a major element in the structure of the nation's postal system, it is difficult to determine precise cause-and-effect relationships and thus difficult to say categorically that the economy would, indeed, be better off without the monopoly.

As suggested above, the continuing presence of the postal monopoly suggests that it has, in itself, had a significant impact on the way the economy has developed. Congress perceived this in the Postal Policy Act of 1958; it found then that:

"The postal establishment was created . . . to advance the national economy. . . . The development and expansion of these several elements of postal service [communication of intelligence, dissemination of information, distribution of articles of commerce and industry, etc.] . . . have been the impelling force in the origin and growth of many and varied business, commercial, and industrial enterprises which contribute materially to the national economy and the public welfare and which depend upon the continuance of these elements of postal service. . . ."

Thus, it is overwhelmingly probable that if one of the major features of our postal establishment were eliminated, we could expect major changes in the development of the economy. Whether this would be for the better cannot be known in advance. Professor Fuller has suggested that in the absence of the monopoly, some parts of the country might be ill-served or pay a much higher price for service. To that extent, some sectors of the economy might not be better off.

With respect to postal workers, there is, of course, a powerful equity argument that persons who have served a government agency in a specialized trade deserve some consideration if a major policy change eliminates their jobs. How far this accountability should go—whether, for example, the government should provide an allowance for retraining—might depend largely on the ability of the private sector to absorb these workers.

Question 16. If the postal business is a "natural monopoly" as some suggest, is there any reason to bolster this natural monopoly by means of a legal monopoly?

Answer. As discussed in the response to questions 10 and 11, the Postal Service—like most regulated utilities—has developed classifications of its service offerings.

From a practical standpoint, there must be a limited number of these classifications which means that mail pieces with some degree of heterogeneous cost characteristics are necessarily grouped together. Thus, users within particular classifications pay identical rates, although the actual costs associated with providing service to individual users within the group may differ somewhat. In purely economic terms, this can be thought of as a form of cross-subsidization. Whenever there is cross-subsidization, even of this secondary and unavoidable kind, I believe it creates the potential for entry by competitors into selected submarkets. In the postal arena, of course, there are submarkets where capital costs are minimal (for example, because of limited geographical scope); in such cases there are less formidable economic barriers to entry.

In order to meet currently effective policy goals without the private express statutes, one would have to find that the Postal Service is a natural monopoly as to every distinct submarket Otherwise, it would, logically, be either an "unsustainable" natural monopoly in the sense described in FTC Chairman Miller's testimony before the Subcommittee, or no natural monopoly at all.

Question 17. Is the uniform first-class postal rule in the public interest? What are costs and benefits?

Answer. Although I am not aware of any data that specifically identify the economic costs and benefits of the uniform first-class postal rule, Congressman Udall's statement during floor debate preceding passage of the 1970 postal reorganization bill summarized one benefit as insuring "that no city or place in the United States or in its territories or possessions, would be required to pay more for the delivery of its mail to other citizens in the United States just because of its remoteness or distance from the continental United States or its centers of population." (August 6, 1970 Congressional Record, p. 27606).

The Commission has not reviewed the uniform first-class postal rule in terms of cost-benefit analysis, but addressed several ratemaking aspects of the existing uniform-rate concept in Docket No. MC6–1, which involved proposals to establish a new subclass for local first-class mail. The details are discussed in the response to Question 18.

Question 18. Is there any reason to offer uniform first-class postage for anything but personal correspondence?

Answer. Although the uniform first-class rate is often associated with personal correspondence, several parties appearing before the Commission on behalf of business interests unrelated to the personal greetings industry have made a case for a uniform rate "local" subclass of first-class mail.

In Docket No. MC76–1, for example, the American Retail Federation stated that it favored the establishment of a distinct classification for local mail. It said ". . . the local classification would be a strong incentive for businesses now delivering their own mail to return such mail to the Postal Service." The Council of Public Utility Mailers recommended that "the Commission determine that local rates for cards and letters should be established, determine the scope of the local category, and direct the Postal Service to implement such local categories. . . ." In addition, the National Industrial Traffic League filed a brief in support of the concept of local and nationwide subclasses for first-class mail. It should be noted that these parties supported the lower-rate local subclass in the context of a uniform nationwide rate. They did not address the issue of "zoning" first-class mail over longer distances.

In short, filings in Commission proceedings indicate that there has been substantial interest not only in a uniform rate for personal correspondence, but also for certain business mail. The Commission's position, as set forth in the Docket No. MC76-1 decision, was that:

"We find that the phrase 'uniform throughout the United States' requires that rates for letters sealed against inspection be available on the same terms nationwide. It does not prohibit rate distinctions between letters sealed against inspection." The Commission also said:

"The language of § 3683(a) provides a plain indication that the Congress did not consider the requirement of uniformity and the prohibition against variance with distance as being synonymous terms. They considered these two concepts as separate and distinct. Congress did not add to section 3623(c) the separate prohibition that rates for letters sealed against inspection must not vary with the distance transported. Congress only required that they be uniform throughout the United States, its territories and possessions. Therefore, we conclude that the Congress did not proscribe the adoption of distance related, local rates for first-class letters sealed against inspection."

Question 19. What changes, if any, should be made in the charter of the Commission in order to allow it to do its job more effectively?

Answer. In brief, some of the desirable changes relate to expedited mail classification proceedings, subpoena power and final decision authority. The mail classification language proposed would make formal trial-type proceedings discretionary rather than mandatory. Subpoena power and final decision authority would among other things, aid in fulfilling the Commission's information-gathering needs and in achieving a quicker resolution of rate and classification cases. I would be happy to discuss these and other Commission recommendations with you and your staff.

Question 20. Over the long run, should the Federal Government be in the document delivery business at all? Why should not such services be provided by the private sector, perhaps under some sort of government regulation, like the telecommunications services?

Answer. Since the private sector can (and does) provide document delivery service, the validity of continued federal government involvement in this area is naturally open to periodic reexamination. As a starting point, one must consider the scale on which private companies provide document delivery service. To my knowledge, it is not comparable to the scale on which the Postal Service provides this service; nor is it clear that the private sector—even if subsidized or regulated—would provide comparable service if the Postal Service's role in document delivery was diminished or eliminated.

As discussed in more detail in the response to questions 10 and 11, the scale of service the Postal Service provides is attributable not only to its monopoly position, but also to Congressional directives regarding nationwide delivery requirements, service standards and maintenance of a readiness-to-serve capacity. Since it is doubtful that the private sector would agree to provide document delivery under these same conditions, I think the question then becomes whether the public policy considerations Congress has endorsed to date as an integral part of the national postal system are to continue; if they are, it seems to follow that the federal government should also continue to be in document delivery.

RESPONSE OF R. STEPHEN FISHER TO ADDITIONAL WRITTEN QUESTIONS POSED BY SENATOR SYMMS

THE ASSOCIATION OF DATA PROCESSING SERVICE
ORGANIZATIONS (ADAPSO),
Arlington, Va., August 23, 1982.

Hon. STEVEN D. SYMMS,
Russell Senate Office Building, Washington, D.C.

DEAR SENATOR SYMMS: This is in response to your additional questions regarding the U.S. Postal Service and its entry into the electronic mail and message service business.

1. I do not know of any aspects of the ECOM service that would not or could not be provided by the private sector. There are today a number of companies offering electronic mail and message services—and at a profit. These include Compuserve's Infoplex, Tymshare's Tymnet, and the other offerings referred to in ADAPSO's position paper.[1]

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[1] See the ADAPSO position paper referred to, pp. 98 and 99.

2. Although not in a position to describe fully the public debate on postal telecommunications, it has long been ADAPSO policy that competition, innovation, and productivity are better served when goods and services are provided by the private sector rather than the government. Accordingly, government should not compete with the private sector. More specifically, it is unfair to allow U.S. Postal Service entry into the telecommunications marketplace without requiring the Services to show a profit. The private sector should not be forced to compete with Postal Service offerings which are subsidized by revenues from direct mail.

3. I do not believe that Congress intended to authorize Postal telecommunications. Postal telecommunications were seen as a possibility as early as 1966, by which time several private sector companies, including IBM, General Electric, and ITT, had established their own telecommuniation networks.

More specifically, S. 898, the Telecommunications Competition and Deregulation Act of 1981, adopted by the Senate, allowed the U.S. Postal Service to engage in the electronic delivery of messages but only through a "separate organizational entity." Moreover, an extended colloquy between Senators Packwood, Stevens, and Schmitt clearly established that S. 898 would not have allowed U.S. Postal Service competition with the private sector in the provision of electronic message services without explicit Congressional authorization for such.

H.R. 4758, introduced in this Congress by Representative Glenn English, would generally preclude federal agencies from using their automatic data processing and telecommunications facilities to provide services for anyone other than another federal agency. Although in introducing the bill Mr. English noted that it would not restrain the Postal Service's ECOM offering, he did say that it would prohibit the Service from providing telecommunications services generally unless pursuant to Congressional authorization.

4. Telecommunications technology has already started to reduce the demand that some documents be printed and mailed. The reduction, however, is hardly noticeable because use of direct mail as a marketing tool is growing even faster. The transition from direct mail to telecommunications will be slow. It is an expensive substitute today. Although the technology has been developed, the costs have not yet become competitive "across the board" with direct mail.

Today the business community is the primary user of electronic message switching. Many companies have established central computer data bases of information which can be accessed from remote locations. Data (i.e., messages) can be called up on distantly located cathode ray tubes (CRT's) using standard telephone lines. Several companies have even gone so far as to establish "electronic mail boxes" within their companies' computers. Messages can be routed to one or one hundred "mail boxes" by simple command to the computer. Security systems are very good and acknowledgement of message receipt can be established by the computer (showing even the recipient and time of receipt).

Geography is no problem. With the use of In-WATS lines centrally located computers are accessible from all parts of the country. Additionally, large remote computing service vendors such as GEISCO, Control Data, and Tymshare have established communications networks linking all major cities in the U.S., Europe, and around the world.

The range of opinions on demand for electronic message switching is quite narrow. All acknowledge that the technology is here and improving very rapidly. About the only difference is the speed with which this new technology will be implemented. Costs seems to be the major stumbling block, although they continually being reduced as more and more private sector competitors enter the field.

5. As stated in my written testimony at pages 11, 12, and 13, if the Postal Service is allowed to enter the electronic message service marketplace, it should compete fairly without the benefit of cross-subsidies derived from its direct mail monopoly.

Moreover, legislation should be enacted requiring the Postal Service to conduct its activities through a separate subsidiary with stringent accounting and structural separation requirements designed to detect and nullify any opportunities for cross-subsidization and other competitive abuses. Additionally, this separate subsidiary should be required to report to the Postal Service for its profitability but should not be governed by the Postal Rate Commission as to rates.

Again, ADAPSO appreciates the opportunity to be of service to the Subcommittee. If we may be of additional service, please do not hesitate to call upon us.

Sincerely,

R. STEPHEN FISHER.

U.S. Senate,
Washington, D.C., May 19, 1982.

Mr. Robert L. Oaks,
P.O. Box 901,
Silver Springs, Fla.

Dear Mr. Oaks: Thank you for your letter. I certaintly appreciate hearing from you.

The Private Express Statutes preserve the United States Postal Service's (USPS) monopoly of the delivery of first-class mail. Furthermore, the USPS is bound to the principle of single rates for this mail, whether it be sent from one side of town to another or from coast-to-coast. Some critics of the Postal Service have suggested that if competition were allowed, the consumer would ultimately benefit from the rates determined by the marketplace. Although this concept appears appealing at first glance, the introduction of private competition would not benefit the nation as a whole.

The high cost of providing mail delivery to rural areas is offset by the returns from low-cost high-volume urban areas. Elimination of the Private Express Statutes while retaining the uniform first-class rate requirement would allow competitors to undercut the Postal Service in urban areas. To counteract this loss, the USPS would have to raise postal costs and the higher price would be borne primarily in those rural areas which only the Postal Service is required to serve. Even if the uniform rate requirement were eliminated for the Service to retain a competitive posture in urban areas, the cost would still be carried in the rural areas or subsidized by the American taxpayer. Neither represents an attractive alternative.

Competitors vying to serve both urban and rural areas would represent the ideal scenario. However, economics dictate that private companies would not service unprofitable routes which the Postal Service is bound by law to serve. In view of the aforementioned facts, I believe it ill-advised to tamper with this uniform system which has worked since 1775 and which is so vital to our nation's commerce and communications infrastructure.

Finally, I sincerely hope that this belated reply will not preclude you from contacting me in the future on matters of importance to you. Be assured that I will endeavor to address your comments and concerns in a more timely manner.

Sincerely,

Howard H. Baker, Jr.

THE FUTURE OF MAIL DELIVERY IN THE UNITED STATES

MONDAY, JUNE 21, 1982

Congress of the United States,
Subcommittee on Economic Goals
and Intergovernmental Policy
of the Joint Economic Committee,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 5110, Dirksen Senate Office Building, Hon. Steven D. Symms (member of the subcommittee) presiding.

Present: Senator Symms.

Also present: Samuel J. Rouston, legislative assistant to Senator Symms; and Taylor R. Bowlden, staff assistant, Senator Symms' office.

OPENING STATEMENT OF SENATOR SYMMS, PRESIDING

Senator Symms. Good morning. The Subcommittee on Economic Goals and Intergovernmental Policy of the Joint Economic Committee will resume hearings which began last Friday. I wish to welcome all of you who are here this morning as we begin this second day of hearings on the future of mail delivery in the United States.

We have previously completed one session of these hearings at which time we heard from expert witnesses which provided much valuable information and testimony on mail delivery in this country.

The purpose of these hearings and any subsequent action is to provide a forum for discussion on this issue. As I said in my opening statement, we must as a nation review our present mail delivery arrangements in light of certain revolutionary changes in technology and national mail delivery needs.

I'm delighted that we have again a list of may knowledgeable postal experts in these hearings today and I'm anxious to hear and read their testimony. Our first witness is the Postmaster General of the U.S. Postal Service, Mr. William F. Bolger, who has a very distinguished record in public service. He came up from the ranks through the post office to become the Postmaster General and, Mr. Bolger, I heard on the news this morning that you reported that because of the slowdown in inflation and the more efficient means in which the Postal Service is operating this year you will be in the black, and I commend you for that.

The Cable News Network station reported that there would be no increase in the first-class postage stamp price this year and I think you're probably pleased about that as are millions of other Americans. You may or may not have seen my opening statement last Friday, but I did want to repeat for your benefit and for the benefit of the men and women in the Postal Service that I am one who will not take anything away from them for the job that they do.

Over 650,000 Postal Service employees now handle approximately 110 billion pieces of mail and 200 million packages each year. This vital service has, for the most part, met our national needs quite adequately. Nevertheless, as a nation—we should review our present mail delivery arrangements in light of certain revolutionary changes in technology and needs.

That was part of my statement that I made Friday and I wanted you to personally hear that and as far as I'm concerned I will say that our postal system is the best in the world. However, I think even in view of that fact, these hearings are essential for this question of whether or not we are holding back what might be better mail delivery in this country. We may have a static situation with laws that don't allow for change to keep up with the times.

I ask unanimous consent that the statement from Senator Barry Goldwater of Arizona be placed in the record. I think it's interesting to note Senator Goldwater mentioned that he thinks the burden of proof is on those who would change the private express policy and, in his opinion, this burden has not been met. So he favors the retention of the private express statutes and I'll submit that for the record.

[The statement of Senator Goldwater follows:]

Statement of Hon. Barry M. Goldwater, a U.S. Senator From the State of Arizona

Senator Symms, thank you for the opportunity to comment on S. 1801, a bill to repeal the private express statute in order to open up first class main service to private competition. Although I generally support unrestricted private enterprise activity, I am concerned that repeal of the private express statute will lead to destruction of public mail service and leave many citizens, who live within inner-cities or rural areas, without regular and relatively low cost services.

My concern is that repeal of the private express statute would mean an end to uniform postal rates and a massive decline in the availability of services to inner-city and rural locations. In addition, the loss of a major share of first class mail volume would most likely drive rates up steeply for any remaining service. The subsidies needed to support continued postal operations as a provider-of-last-resort and at reasonable rates would be enormous, a need that is not addressed at all by S. 1801.

I am especially concerned that repeal of the private express statute would bring very highly priced postage rates to rural communities, or the complete loss of service. If uniform rates are no longer granted and first class mail is primarily or solely determined by route density and distances, and if total mail volume carried by the Postal Service is seriously cut, this would surely result in very harmful consequences for rural communities.

It is true that some services, such as the delivery of milk and eggs, can be successfully provided by private carriers in rural areas, but these are often produced locally and there are no problems of interconnection equivalent to the delivery and pickup of mail which flows in a nationwide communication system.

Until I can be persuaded that elimination of the private express statute will not destroy or seriously damage one of the country's fundamental and necessary institutions, the university available, affordable and regular public mails, I must oppose the proposed experiment. The burden of prooof is on those who would change the private express policy and they have not met it.

Senator Symms. Mr. Bolger, I would certainly like to have you go ahead and commence with your statement and we'll probably have a few questions for you afterward. Mr. Cox, we welcome you also this morning. I guess that you, Mr. Bolger, will do most of the speaking but you're accompanied by your general counsel of the Postal Service, Louis Cox. Is that correct?

Mr. **Bolger**. Yes, sir.

Senator **Symms**. OK.

STATEMENT OF HON. WILLIAM F. BOLGER, POSTMASTER GENERAL OF THE UNITED STATES, ACCOMPANIED BY LOUIS A. COX, GENERAL COUNSEL, U.S. POSTAL SERVICE

Mr. **Bolger**. Thank you very much, Senator, and thank you for your very generous and kind remarks about the Postal Service. On behalf of all the postal employees who really do the job, I want to express my appreciation.

Senator **Symms**. I know a lot of them think that I'm some kind of an enemy of the post office for bringing up this question of competition and the monopoly and whether or not it serves our national interest, but nothing could be further from the truth. Somebody is going to be delivering the mail and everybody has to have letters delivered. It's a fact of life. So people in that business will still have the opportunity to work, no matter what the result will be.

Mr. **Bolger**. Senator, I know from our personal conversations, and not just our exchange of correspondence, that you feel very delighted that we have a good postal system in this country and you certainly have no ax to grind with the postal employees. I know that.

Senator **Symms**. Thank you.

Mr. **Bolger**. Senator, there are two topics that I wish to address in my opening remarks to you today: (1) Why we have the private express statutes; and (2) why the private express statutes continue to be in the public interest. We have submitted for the record much more detailed material in answer to the many specific written questions which you provided in March.

First of all, I want to go on record that the only reason to retain the private express statutes should be that they are still needed in the public interest. I don't believe they should be retained for the benefit of postal management, postal employees, or the postal unions.

A hearing on the private express statutes could just as well be labeled as a hearing on the public policy of universal postal service provided by a Federal postal system. Without the private express statutes, we could not afford to maintain a universal Federal service; and apart from the need for such a service, there would be no reason to have these statutes.

Let me explain what I mean by a universal Federal Postal Service. There are two aspects to it.

First, by law, the U.S. postal system must serve everybody. We have over 39,000 postal facilities and about 175,000 delivery routes throughout the country, so that people and businesses in every community can have ready access to mail services on a daily basis. And we can't play favorites in order to try to earn profits. We are required to do our reasonable best to treat everyone equally.

This includes having a uniform rate structure. Whether you mail a letter in Idaho or Alaska, here in Washington or in New York, and no matter where it goes within the United States, as a matter of national policy you pay the same rate.

These universal service and uniform rate policies are not just the Postal Service's or the Postmaster General's notion of what is good for the country. These policies were developed by the Congress of the United States, and are written into the laws of the land. The managers and employees of the Postal Service have been hired as public servants to put these fundamental public policies into effect.

This leads me to the second aspect of a universal Federal Postal Service. It is a service provided for all of the people by the Federal Government. So its mission and its basic policies are prescribed by law. While the Postal Service has been given considerable operational flexibility to try to perform its job as efficiently as possible, its performance is subject to continuing congressional oversight, as it should be.

These two aspects of the postal system—a universal service, a service which the people can demand from their Government—are deeply imbedded in tradition and popular expectation in this country. Even though postal services are now largely paid for directly through postage, the American people still regard their mail system as more than simply a matter of dollars and cents. They see its services as part of their rights as citizens.

Universal postal service is also part of the basic economic and social fabric of this country. The universal postal system helped this Nation to grow into the prosperous, powerful, and unified Nation in which we live today. During a period of 200 years, to a great extent, the country's daily activities have grown around and come to depend upon the assumption of a universal postal service available to all and linking everyone together.

A good clue to how people would react to a major shift away from a universal Federal postal system is how they have reacted to proposed service changes in the past and how they react to marginal changes in the present network. I can tell you that when it comes to a possible closing of a local post office or a change in delivery, people have very strong opinions. By and large, they strongly prefer what they have and they want to keep it.

I firmly believe that a universal Federal postal system with uniform rates serves the public interest best—and I know that the other officers and the Governors of the Postal Service share my view on this. Our national postal system linking everyone together, with the stability and assurance that comes from the knowledge that it is required by law, works to the advantage of all types of mailers all over the country—individuals, small business, and big mail-order firms; in the rural West, in the suburbs of the sun belt, and in the South Bronx, New York City. Everyone benefits from the simplicity, security, and basic fairness of a universal service.

I am not one of those who consider uniform rates, small post offices, 6-day delivery, and the like as "uneconomic" or inefficient. From time to time, we find a few post offices which lose their utility and can be closed, when we can meet our service responsibilities more efficiently on a rural route or in some other way. But we need the vast majority of our post offices, we currently need 6 days of delivery, and we need a uniform rate structure, just to fulfill our universal service obligations to the public.

Now I have heard the argument that overall economic efficiency might be improved if there were free competition among many providers for all postal services. No doubt, Government involvement in assuring there is at least one universal service available for everyone, in conformity with Federal policies and restrictions, does involve some costs as well as benefits. But there is also a strong case to be made that universal service by a single postal system is the most efficient means of providing service.

Certainly, it is for you, the elected representatives of the people, to assess on a continuing basis what it is the people want in this area and what will best serve their needs, just as your predecessors have done when they established and maintained the universal service requirements and the Private Express Statutes over 200 years. Based on my years of dealing with the public from within the postal system, my personal reading is that any attempt to abandon universal Federal postal service would run into fierce opposition from the people of this country who know the value of the service they have now and don't want to risk losing any of it.

Exchanging universal Federal postal service for whatever private entrepreneurs would offer would also pose some massive practical problems which Congress would have to face. For example, an absolute necessity for any postal network is the ability to connect each and every individual, both in this country and throughout the world. With a number of competing local or regional services, how would mail exchanges be assured? How would mail forwarding be provided for the millions who move every year? Who would assume this country's responsibilities and relationships to the postal administrations of other nations? How would the sanctity and security of the mail be protected? Would the public still be protected against the mailing of obscenity and the like, and against mail-order deceptions?

What would be done with the U.S. postal system? Would Congress be prepared to give it total freedom to compete fully with the private sector? I don't think it would. If some Federal services were retained, how would it be decided which ones, and at what price? Can the taxpayer afford it? This year, after all, it looks like the Postal Service will not receive any public service appropriations from the taxpayer at all.

The Congress would need to address all of these problems and questions, and answers would not come easy. I don't have answers for these difficult questions, and I haven't yet seen anyone else come up with a cohesive policy for dealing with these issues in a manner which would uphold the public interest.

If we want to retain our universal, nationwide postal system and uniform rate structure which we have today, the Postal Service must remain a high volume system. Our system runs on volume. It is simply commonsense that we couldn't support the cost of a U.S. post office in every community, with a route running daily to virtually every delivery box, unless we continue to move large volumes of mail throughout the system. In recent years, as volume has soared to over 110 billion pieces annually, the Postal Service has made remarkable advances in its productivity, in part by increasing the mechanization in what remains a labor-intensive operation. The number of pieces handled per labor workyear has increased for 7 consecutive years, as we experienced growth in mail volume in all but one of these years. Our cumulative productivity increase since 1970 now exceeds 38 percent. As we move toward the automation of mail processing over the next several years, a continuation of volume growth will help us to extend this record of improving productivity, which is essential if we are to keep postal rate increases within reason.

Our job in the Postal Service is to continue to provide the service which Congress has outlined, and to provide it as efficiently and economically as we can. I believe the record of the past 10 years shows that the management of this particular Government service has a very strong incentive to work to improve efficiency and productivity, and that our efforts continue to bear fruit. I regard the Private Express Statutes as essential to the performance of the service role which has been assigned to us.

The Postal Service is older than the Constitution. Throughout its history, the Postal Service has fostered the economic and cultural development of this country, and helped it to grow into and remain the great Nation it is. I believe that the Postal Service will be as necessary for the economic, cultural and individual well-being of this country and its citizens in the future as it has been in the past. But I also recognize that it is ultimately for the Congress to chart the course which we will take, to monitor our progress, and to make any adjustments that it feels the public genuinely wants and needs.

That's the end of my prepared statement. I'll try to answer any questions you may have.

Senator SYMMS. Thank you very much for a very excellent statement, Mr. Bolger, and your entire statement—not only the one you gave but some of the answers we've requested, will be made a part of the hearing record and we appreciate those replies.

You made a comment to the effect that by and large people, when it comes to a possible closing, people prefer what they have and want to keep it. And somewhere here there was something about the overwhelming majority of the American people want to keep the Postal Service.

What do you say about the NFIB poll that they recently took where 72 percent of all the respondents nationwide of small business people said that they favored a fundamental change in the mail delivery system and only 22 percent favored maintaining the present system? Do you think it's because they haven't thought through all the ramifications of it?

Mr. BOLGER. Senator, I'm not prepared to answer that because I haven't seen all the questions and how that was approached. Although I haven't personally seen it, it's something that needs to be explored. I am interested in that information. I will dig into it and see just what it means. I'm talking on the basis of the polls that we have conducted or had conducted in the past or others had conducted.

Senator SYMMS. In the view of the Postal Service, what percentage of first, second, third, and fourth class mail is covered by the postal monopoly?

Mr. BOLGER. Every letter is covered by the postal monopoly and generally people think only first class mail is covered by the postal monopoly. It's any addressed letter, which includes a great deal of our third class.

If you ask me—without exploring details—I would say that over 50 percent of the current mail volume we handle is covered by the postal monopoly.

Senator SYMMS. As I understand the postal monopoly extends only to the carriage of letters. Disregarding any administrative suspensions, does the postal monopoly over letters as interpreted by the post office—and I'll just present a list of items and maybe if you're unsure of some of them we can get the answer later—include printed advertisements?

Mr. **Bolger**. It all depends. If they're individually addressed, they do.

Senator **Symms**. Then they would be covered?

Mr. **Bolger**. I'll let my lawyer kick me in the shins here if I start straying. He knows a lot better than I do.

Senator **Symms**. He can certainly correct you. Checks and stock certificates in general.

Mr. **Bolger**. Again, in general, yes.

Senator **Symms**. Fishing licenses?

Mr. **Bolger**. Again, its questionable. Individually addressed, yes. Senator, I think that maybe we would both be better off by my answering those for the record.

Senator **Symms**. OK. I'll just submit the list. We've got a whole group of very different things like credit cards, computer printouts, and so forth.

Do you have a definition at the Postal Service of what a letter is?

Mr. **Bolger**. I'll defer to my learned counsel, if you don't mind.

Mr. **Cox**. Yes, sir. We have a definition which is published in postal regulations appearing in title 39 of the Code of Federal Regulations, parts 310 and 320, which I happen to have in my hand. Part 310.1 lays out a number of definitions, including the definition of the term "letter," and "letter" is defined here at some length and I'll just read the very first part of it to you. "'Letter' is a message directed to a specific person or address and recorded in or on a tangible object, subject to the following"—and then it goes on to describe what a tangible object is and is not and what a message is and is not and so forth.

Senator **Symms**. How could that definition be expanded in the future to cover electronic data, or is it apt to be?

Mr. **Cox**. In my opinion, there is no way under the existing statutes that electronic data, intangible electronic impulses and that kind of thing, would come within the reach of the statutory definition of the word "letter." Only the hard copy.

Mr. **Bolger**. But let us not take a chance on somebody's other opinion or definition. I think that counsel is absolutely right on that. Senator, what I have recommended and I still continue to recommend is that either the Postal Reorganization Act or the Communications Act of 1934 be amended to make sure there is language put in there preventing the Postal Service or any other government agency for that matter from providing terminal-to-terminal services; the so-called Generation III electronics.

Senator **Symms**. Preventing them from doing it?

Mr. **Bolger**. Preventing them. Absolutely prohibiting the Postal Service from getting into terminal-to-terminal or Generation III type electronic services. It was decided long ago in this country that that belonged to the private sector and that's where it belongs.

Senator **Symms**. So, in other words, you don't want to get the Postal Service into the business of electronic impulses and so forth?

Mr. **Bolger**. I don't want to myself, but whether I want to or not, they shouldn't be in it. We should use electronic technology as a transportation system to move mail from point to point where it still has to be converted into hard copy and delivered by a system like the Postal Service.

Senator **Symms**. So, in other words, could you describe what would be an example of that? You send an impulse through a telephone to a post office, say, to Idaho and then it's typed up.

Mr. **Bolger**. Let me give you a current example of what we're doing. The E-COM system, the electronic computer originated mail, involves information that's stored in a computer, a postal customers' computer. People using the E-COM service purchase this transmission portion from telecommunications common carriers—one of many that offer the service, not from us—and it's moved over the private phone transportation system to a post office that also has a computer. We pick up that information on our computer and we translate it into hard copy and we envelope and deliver it.

The reason why we have to be involved in it is simply because that hard copy still needs to be delivered. If you had that terminal in your home or that company could access you at your home at that electronic terminal, even if you had it printed out at home, that's not our business and we don't belong in it.

Senator **Symms**. Well, for example, these mailgrams that people send. That's Western Union?

Mr. **Bolger**. That's Western Union.

Senator **Symms**. Do they deliver those personally or do they send those through the post office?

Mr. **Bolger**. We deliver for them. We have Western Union under contractual arrangements we've had since 1970. They transmit over their system to our receiving post offices and we simply take those—they're printed on their equipment—and we envelope and deliver the mailgrams for them for a price which is currently 37 cents per message.

Senator **Symms**. So, in other words, if a person wants to send a mailgram, they send it through Western Union and they send it to the post office box with the address and it can be delivered the next day?

Mr. **Bolger**. That's correct.

Senator **Symms**. Thirty-seven cents?

Mr. **Bolger**. Thirty-seven cents. That's handling and delivery charges that we charge. That's our current contractual price.

Senator **Symms**. That's right reasonable, isn't it?

Mr. **Bolger**. Well, the mailgram is not 37 cents. That's what Western Union pays us. The mailgram is more than that. I don't have the price right off the top of my head.

Senator **Symms**. I see. Well, if this informational transmission through electronic means, in which the post office is not involved, becomes terminal-to-terminal and becomes more and more prevalent, do you have any figures on how that will affect the revenues of the Postal Service?

Mr. **Bolger**. I'm not an ostrich and I don't put my head in the sand. I know new technology is advancing. Incidentally, electronic technology has been costing the Postal Service business for years. Way back in 1923 the telephone companies of this country exceeded the mails. measured by total message units. I see the Postal Service at some point in time being further impacted by the further use of electronic technology, particularly terminal-to-terminal. But by the same token, I see a lot of growth in the Postal Service and the hard copy delivery service provided two things happen—we keep our service at acceptable levels or better, and we keep our prices from accelerating too rapidly and certainly below the rates of inflation.

If we do those things, I see the growth. I know that several years from now, maybe 8 to 10 years from now, there will be 10 or 15 million more home terminals for people to use. I know that for sure. But I also know that there will be 20 to 25 million new homes out there, additional places that need hard copy delivery service. So I think——

Senator **Symms**. We hope there will be 25 million new homes out there.

Mr. **Bolger**. There'd better be, Senator.

Senator **Symms**. There sure better. I don't know whether you got to read all the testimony Friday, but one of the witnesses was somewhat critical of the Postal Service for not having a vision of the future and for being a dinosaur in the face of change.

Do you feel that under the present structure the Postal Service can adapt to radical change? What bothers me sometimes is, can you actually get the decisions made without running amok of the politicians? You know, we had this big effort to zap the ZIP last year—an effort which I didn't participate in and opposed because I felt if you're going to run the Post Office you ought to have the opportunity to make decisions on the line and not have some of us nonexperts trying to tell you what to do. But you still have to face the political reality that even in spite of the separation of the Postal Service now from what it used to be, there still is a great deal of political pressure involved. The Postal Rate Commission may not always want to raise the rates when they need to be raised when there are other pressures and so forth. What's your viewpoint on that for the future?

Mr. **Bolger**. In the overall, I think the Postal Reorganization Act has been a very good service to the country, not just for the Postal Service. It serves the country well. Surely, it isn't a perfect instrument and there may be some changes needed in the future.

By the same token, I think we've had the latitude we need to make sound business decisions through our policy group, the Board of Governors of the Postal Service, and for the most part we have. I think it's unfortunate that we get a setback that prevents us from utilizing the things that are available to us to further improve our efficiency.

Senator **Symms**. How did the nine number ZIP finally come out?

Mr. **Bolger**. Well, we have ZIP+4. It's the current 5 digit ZIP code plus a 4-digit add-on. The Budget Reconciliation Act of 1981 restricts us from implementing the ZIP+4 until October 1, 1983. I think that was a most unfortunate thing. But as you say, as a Government agency, we certainly are part of politics, not partisan politics, and I respect Congress authority as they see they're representing the public interest. I think it was a mistake. I'm sorry it happened. I hope there isn't any further delay.

Senator **Symms**. Well, it appears to me it's a mistake. I think that you've demonstrated that you've improved the efficiency of the Post Office with the present ZIP code; isn't that correct?

Mr. **Bolger**. Yes, we have. We have gone far from when we first got our new equipment and the ZIP code. By 1970, 7 years after we put the ZIP code into effect—the 5 digits—we only had 25 percent mechanized sorting of first class of letter size mail. Today it's up over 70 percent and we did this because we were able to make businesslike decisions and make capital investments in equipment and buildings and what have you. That was one of the favorable results of the Postal Reorganization Act of 1970.

Senator SYMMS. Now I have visited a couple of these centers, the one in Boise particularly, where they sort all the mail and use machines to route the letters. These operators sit there and intensely watch these letters come by. There has been a study released which indicates that postal workers' productivity is 40 percent less than that of workers in the private sector and wage benefits are up 40 percent with less productivity per worker.

When I watched that operation I was amazed that you could get people to do it at all; I mean, to sit there intensely and run one of those machines. How is the morale of those postal workers who have to intensely stare at that machine and hit those numbers?

Mr. BOLGER. I think the morale of the Postal Service is generally very high. That is a boring job. It really is. We don't sit them there for hour after hour without some break and some relief from that type of activity. If you look at the letter sorting machine operation, it's not just the 12 keyboard operators there. There are people loading. There are people in the back of that machine sweeping mail. So we rotate the people that operate that. They're on a rotating basis so there is some relief from that boredom, but it is a boring job.

Senator SYMMS. Are there any places in the country where you still do it the old way?

Mr. BOLGER. Oh, sure. There are a lot of small places. Most of our mail is concentrated in about 220 locations around the country, so we take the maximum advantage of the mechanization. But we still do a lot of hand sorting. The machines you see are generally confined to sorting mail that goes from place to place and with some high degree of specialized knowledge, what we call schemes, they can sort mail down to carrier routes and delivery points.

The nine digit code, the four digit add-on, will allow us to use optical character readers to read the information on the envelopes of the mailing piece, transmit it to a computer, and then get it sorted all the way down to a carrier route, all the way down to a post office box, all the way down to an individual if they have sufficient mail to justify a unique ZIP+4 code.

Senator SYMMS. Well, how about the discrepancy on productivity and benefits?

Mr. BOLGER. Well, our productivity has increased. It's up around 40 percent. Our benefits have increased greatly, but we came from a very low base and in the major urban areas of the country back in the 1960's and 1970's and even into the early 1980's, our postal employees were grossly underpaid compared to like jobs in the private sector. We're not on area wage scales. We have a general wage scale that we negotiate through our labor contracts. You can probably find by examining this from point to point around the country that some of our employees appear overpaid for like jobs in that particular community. But overall, I think our wages, our fringe benefits, are in keeping with those for similar jobs in the private sector. This is required by law.

We did have some acceleration of our labor rates and our fringe benefits early on in the postal reorganization, but they should not be misunderstood. A great many of those were catchups because we were so far behind.

Senator SYMMS. Well, the reason I asked the question about the hand sorting is that I would think just for a guy's psychological and physiological well-being he would be happier sitting there tossing those letters into the carts—you would get more personal satisfaction from that than running that machine. To me that looked like—I took my hat off to them. I don't know how you can get a guy to concentrate that intensely for long periods of time without having him just become very unstable. Obviously, there's a way that you can get it done.

Mr. BOLGER. Well, Senator, I wouldn't care to do it myself.

Senator SYMMS. If I was doing it, I would rather be the guy walking up and down the street delivering the mail where there was a little bit of the personal touch to it.

Now I had a question about third class mail I did want to ask you. I don't know how much time we have here this morning. We're probably going to have to submit a few more questions to you for the record. I'll ask you one more question and then we'll submit others to you.

In general, what would you consider to be the best method of public funding of services which may be in the public interest but not commercially self-sustaining?

Mr. BOLGER. As an official, I'm going to answer as the Postmaster General, if you don't mind. I think the decision of how we spend the taxpayers' money belongs to the elected representatives of the public, the Congress and the President.

Senator SYMMS. Is an indirect, internal cross-subsidy, such as airlines and the post office have historically used, or a direct subsidy better—that's the question I want to get at. I understand that the Congress ultimately would have control, but do you think it's best to have a direct subsidy by Congress such as now used to support air service to small towns, or an indirect cross-subsidy by having first class pay for fourth or second class and so forth?

Mr. BOLGER. That's prohibited by law now. Each class and subclass of mail is not allowed to cross-subsidize another class or subclass of mail. Our rates are set so we will not have any subsidy from one class to another.

Senator SYMMS. There have been some people who have suggested that maybe there should be some kind of excise tax placed on delivery. How would you feel about that?

Mr. BOLGER. Excise tax placed on delivery of mail?

Senator SYMMS. To subsidize it and to pay for it.

Mr. BOLGER. You mean repeal the Private Express Statutes and have an excise tax that would subsidize the Postal Service?

Senator SYMMS. Yes.

Mr. BOLGER. I don't know, Senator. I frankly feel that the approach that the Congress used in developing the Postal Reorganization Act and finally enacting it is the best long-term way for the Postal Service to go. It provided in that act that the people who use the mail service would pay for those services. It put in a provision that for a period of time in the transition, going over a 10-year period, a public service subsidy would be allowed, and it also provided some temporary subsides in transition for certain mailings, particularly for nonprofit organizations. There was a certain amount of subsidy and still is for these nonprofit organizations. But the intent all along was that the users of the Postal Service would eventually pay all the costs of the Postal Service. They left some questions open for further consideration and that's where we are today.

Senator SYMMS. Let me just ask one last question. There was one witness last week who suggested that the very small percentage of international mail that we have could be deregulated without doing any damage to the integral system and it would make it better for the consumers. What was the other area they suggested? Do you think there are any areas that could be deregulated that would not do violence to the system as it now operates?

Mr. BOLGER. We have, under our administrative authority, suspended the Private Express Statutes and when there is a need we would continue to do that.

In the international field, we only control international mail that goes over post roads and post routes in the domestic United States. We do not have any control of the mail until it hits our shores. After it leaves our shores we just don't have any control.

In general, I don't think we have the Private Express Statutes applying to the international mails category. The mail that originates here that's moving out into international fields, while it's in our custody going over our post routes and post roads, is covered by the Private Express Statutes. Inbound, it's not until it reaches our shores. There are other ways of getting international mail in and out of the country over which we have no control. So basically, it is deregulated.

Senator SYMMS. Well, I appreciate very much your excellent testimony and I thank you very much, Mr. Bolger, for being here. We will send you some more questions because we do want to have a very well-rounded hearing record when we complete these hearings and your testimony will certainly be a very important part of what considerations might be taken in the future. So I thank you again for your time and wish you the best in the future.

[The following information was subsequently supplied for the record:]

RESPONSE OF HON. WILLIAM F. BOLGER TO ADDITIONAL WRITTEN QUESTIONS POSED BY SENATOR SYMMS

THE POSTMASTER GENERAL,
Washington, D.C., September 21, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMMS: This is in response to your July 20 letter posing twenty-nine additional questions to be answered for the record of your hearings on the future of mail delivery in the United States. Enclosed, please find my responses.

I would like to again take the opportunty to recommend that we all look at this issue in terms of its public service aspects. The issue is not solely whether there ought to be Private Express Statutes. The threshold question is whether the citizens of this country want to continue the longstanding policy, memorialized most recently in the provisions of the Postal Reorganization Act, of universal postal service at uniform rates. Once this question has been answered, then we can examine whether the Private Express Statutes remain viable.

If you require any additional information, please contact me or have your staff call Assistant Postmaster General Edward E. Horgan, Jr.

Sincerely,

WILLIAM F. BOLGER.

Enclosures.

QUESTIONS CONCERNING THE U.S. POSTAL SERVICE MONOPOLY

SCOPE OF THE POSTAL MONOPOLY

Question 1. As I understand it, the postal monopoly extends only to the carriage of "letters". Disregarding any administrative suspensions, does the monopoly over "letters", as interpreted by the Postal Service, include:

Printed advertisements?
Checks and stock certificates, in general?
Fishing licenses?
Walt Disney posters?
Football tickets?
"Orientations of magnetic particles in a manner having a predetermined significance"?
Data processing programs?
Computer printouts?
Gasoline company credit cards?
Contracts?
Invoices?
Bills of lading?
Addressed boxes of merchandise with printed advertisements?
Memoranda between two offices of the same corporation?
Blueprints?
Photographs?

Answer. While the Private Express Statutes, which do not truly create a "postal monopoly," do not themselves define the term "letter", Part 310 of title 39 of the Code of Federal Regulations contains a definition adopted through the notice-and-comment rulemaking procedure which reads, " 'Letter' is a message directed to a specific person or address and recorded in or on a tangible object, . . .". The regulations continue by clarifying the component words and phrases of the definition and by setting forth a list of a number of items which are specifically excluded from the definition of "letter". This list is not intended to be inclusive, but it does contain those items about which questions most frequently arise. Assuming that the particular material in question does satisfy the definition in postal regulations, there still remains the question of whether the circumstances of its carriage involve one of the five exceptions described in 39 C.F.R. 310.3 or one of the five suspensions described in 39 C.F.R. 320, the broadest of which permits the private carriage of "extremely urgent letters".

As you can see, whether the items listed in the question are "letters" for the purposes of the Private Express Statutes and, assuming that, whether they can be carried by a private courier without the payment of postage cannot be determined conclusively without more specific information. Perhaps an example would be instructive. Whether a printed advertisement is a "letter" would turn on an analysis of whether it was addressed to a particular person; whether it was printed in a newspaper, book, or magazine; whether it was being sent to or from a records center for storage or retrieval; whether its physical characteristics indicated that it was intended for posting on a wall or billboard; whether it was copy being sent to a printer or page proofs or printed matter being returned to the sender; or whether there were packets of identical printed letters containing messages the vast majority of which were intended for dissemination to the public. In addition, if a printed advertisement is included within a merchandise shipment "directed to a specific person or address," it thereby becomes a "letter" if other portions of the definition are satisfied.

The Postal Service's definition of a "letter" and its application to specific items have been upheld on several occasions. In 1978, the Second Circuit Court of Appeals held that the Congress' delegation to the Postal Service of the authority to define "letters" or "packets" was constitutional (*United States Postal Service* v. *Brennan*, 547 F. 2d 712 (2nd Cir. 1978), *cert. denied* 439 U.S. 1115 (1979)). The court went on to note that, in view of the myriad methods of communications which now exist, the authority of and necessity for the Postal Service to define "letter" was obvious. The District of Columbia and Tenth Circuits have likewise upheld the Postal Service's definition of "letter" and its application to the situations presented to the courts. (*National Association of Letter Carriers, AFL–CIO* v. *Independent Postal System of America, Inc.*, 336 F. Supp. 804 (W.D. Okla. 1971), *Aff'd.* 470 F. 2d 265 (10th Cir. 1972); *Associated Third Class Mail Users* v. *United States Postal Service*, 600 F. 2d 824 (D.C. Cir. 1979), *cert denied* 444 U.S. 837 (1979).) We are not aware of any court which has found untoward the Postal Service's administration of the Private Express Statutes.

I would point out, however, that many of the items listed in this question have been the subject of advisory opinions issued by the Law Department of the Postal Service, which opinions are strictly limited to the facts supplied in a particular request. If any individual is interested in determining whether items which he intends to transport are "letters" and whether the contemplated method of carriage and delivery would, in the Postal Service's opinion, fall within the coverage of the Private Express Statutes, he or she may write to the Assistant General Counsel, General Administrative Law Division, United States Postal Service, Washington, D.C. 20260.

Question 2. In your view, what percentage of first, second, third, and fourth class mail is covered by the postal monopoly?

Answer. It should be pointed out that whether an item is a "letter" for the purposes of the Private Express Statutes has no relevance with respect to its mail classification. Consequently, the Postal Service does not attempt to track the percentage of each mail classification which might be "letters." Nevertheless, some generalizations are possible. While all mailable matter may be mailed at the First Class rate of postage—meaning that not all First Class Mail is "letters"—it is safe to assume that the overwhelming majority of mail within this classification constitutes "letters." Although the mail classification definitions of "newspaper" and "periodical" differ from those used in the regulations implementing the Private Express Statutes, a very high percentage of second class mail would not constitute "letters." Since third class mail consists of all printed matter not mailed or required to be mailed as First Class Mail, not mailed as second class mail, which weighs less than sixteen ounces, it can be fairly estimated that a substantial proportion of third class mail consists of "letters." Most of these mailings are individually addressed advertising circulars, and solicitations and other correspondence from mass mailers, such as qualified nonprofit organizations. Fourth class mail would involve very few "letters" inasmuch as it contains mostly merchandise shipments, bound printed matter, books, films, sound recordings, and printed music.

Question 3. As I understand it, the Postal Service's position in the *Associated Third Class Mail Users* case was that the postal monopoly over "letters" in fact includes all "matter properly transmittable in the United States mail except for newspapers, pamphlets, magazines, and periodicals." Is this understanding correct?

Answer. In *Associated Third Class Mail Users* v. *United States Postal Service*, 600 F. 2d 824 (D.C. Cir. 1979), *cert. denied*, 444 U.S. 837 (1979), the issue before the Court were whether addresed advertising circulars constituted "letters" for the purposes of the Private Express Statutes and, if so, whether the application of the Statutes to such circulars deprived the members of the group of their constitutional rights. In its brief submitted to the Court of Appeals, a copy of which is attached,[1] the Postal Service took the position that addressed advertising circulars were "letters," as defined by the Postal Service's implementing regulations, and that no constitutional problem was thereby presented. The positions were sustained by the court. Nowhere in this brief does the Postal Service assert the position that the restrictions on the private carriage of "letters" imposed by the Private Express Statutes cover all "matter properly transmittable in the United States mail except for newspapers, pamphlets, magazines, and periodicals." Please refer to Pages 11–22 of the attached appeallate brief[1] for a discussion of the evolution of private express laws in the United States.

Question 4. During the Depression, many persons delivered letters out of the mails. In the 1930's, Postmaster General Brown testified that:

> We have a monopoly only of first-class mail. That is the trouble. If Congress gave the Post Office Department a monopoly of the first, second, third, and fourth classes, then we would get all of the business, but we have a monopoly of only sealed-letter mail. We have come into competition with every sort of carrier on everything else.

Of course, I do not expect anyone, including the Postmaster General, to be absolutely perfect in every statement. Nonetheless, do you not think that the current position of the Postal Service represents expansion over the views stated by Mr. Brown? Has the postal monopoly law changed from then until now?

Answer. The references made by Postmaster General Walter F. Brown during his October 18, 1930 appearance before a Subcommittee of the House Appropriations Committee to "sealed letter mail" and "first class mail" as that mail covered by the Private Express Statutes were imprecise. General Brown was undoubtedly indulging in the not-uncommon tendency to refer to mailable matter in terms of its classification for rate purposes and was surely distinguishing the treatment of "letters" under the Private Express Statutes with that accorded second class mail matter, the topic he was discussing with Chairman William R. Wood. Indeed, the Postmaster General incorrectly limited the application of the Private Express Statutes to sealed "letters". (See *United States* v. *Bromley*, 53 U.S. (12 How.) 87 (1851)).

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[1] The appellate brief may be found in the subcommittee file.

The position of the Postal Service and its predecessor, the Post Office Department, that the Private Express Statutes apply to "letters", has been consistent through the years. Since 1930, there have been two substantive amendments to the Private Express Statutes, neither of which significantly affected their coverage. The Act of June 29, 1938, Chapter 805 (52 Stat. 1231) amended Section 239 of the Act of June 8, 1972, Chapter 335 (17 Stat. 312) to permit the carriage of letters outside of the mails with postage affixed by the sender rather than in government stamped envelopes only and explicitly extended the Postmaster General's authority to suspend the Statutes to "any part" of the section. Earlier, the Act of June 22, 1934, Chapter 716 (48 Stat. 1207) limited the existing special messenger exception to the carriage of 25 letters.

Question 5. None listed.

FINANCIAL EFFECTS OF THE POSTAL MONOPOLY

Question 6. I believe that it is the Postal Service's position that if the postal monopoly laws were repealed, private companies would skim the cream in some areas, such as downtown urban areas? Is this correct?

Answer. It is the Postal Service's position that if the Private Express Statutes were repealed, private companies would "skim the cream" of the letter delivery business by selectively offering that service in those segments of the market which would offer the highest profitability and the lowest rates. It seems probable that one segment which would have these characteristics would be found in those sections of metropolitan centers having a high concentration of business and professional offices. It seems less probable, however, that a private company would attempt to serve every office, store, and apartment within even such limited geographical areas. Nor is it likely that a private company would accept all of the mailable matter, regardless of destination, that even its selected customers would wish to send.

Question 7. Could you be specific as to the areas and types of services in which, by virtue of the postal monopoly, the Postal Service is able to charge more than it otherwise could be a more competitive environment?

Answer. An answer to this question necessarily requires that one keep in mind the purpose of the Postal Service's rate structure. Some of the benefits of a uniform rate structure have been discussed previously in the answer to Question G–4. A uniform rate selected to recover total costs will fall between the highest and lowest cost of any particular delivery. Generally, mail at the low-cost end of that spectrum is subject to "cream-skimming" and represents that business which the Postal Service might have to reduce its charges to keep, in a situation of price competition.

While it is often convenient, and generally accurate, to use the analogy of cream-skimming when referring to that portion of mail with a very low variable cost, it should not be inferred that such mail can be readily distinguished from other mail or that such mail is confined to, or all-inclusive of, a particular service, geographic area or route. As a result, the concept of what mail constitutes "cream" is elusive, and there are probably no geographic areas or types of services which, when taken as a whole, constitute "cream". It is not possible, therefore, to specifically identify or isolate such areas or services. However, it is possible to identify some of the characteristics which can increase or decrease the cost of delivering some mail and then to consider what mail has those characteristics. Density of mail volume and distance traveled are important factors, leading to the conclusion that intra-city mail could be a likely candidate for cream skimming. Obviously, picking up a large volume of mail to be delivered to very few locations would be a more attractive service to skim than middling volumes going to many locations. In addition though, some prevailing local conditions such as labor costs, gasoline costs, traffic and climate, and the size of the business district would have an affect on profitability and therefore on the attractiveness of a route.

Question 8. All together how much cream could be skimmed by private companies? That is, how much in revenue would be lost? How much costs would be saved? If you cannot give an exact figure, how about an order of magnitude? 100 million dollars per year? 1 billion? 10 billion?

Answer. Since what constitutes "cream" depends upon so many variables that it cannot be specifically identified, it follows that projecting lost revenues is impossible. We believe, however, that the amount would be substantial.

Question 9. If some areas or operations provide net revenue or "cream" which is necessary to support the other areas and services, then there must be other areas or operations which lose money on a net basis. Which areas or services are these?

Answer. Just as high-volume, short-distance mail is generally less expensive to deliver, a piece of cross-country mail to and from remote locations is more expensive although it does not follow that all mail delivered at any particular geographic area or by a particular service is delivered at a net loss. As was discussed in the answer to Question G–20, the conclusion that rural operations, for instance, are not financially self-supporting has been based on the shortfall between revenues taken in at small post offices and their costs. However, it is probably impossible to isolate all the costs and revenues associated with a particular segment of the postal network because of the interrelationship of operations necessary to provide universal service.

Question 10. Would the Postal Service object to repeal of the monopoly for these "non-cream" areas or services? To give an example, suppose we abolished the monopoly for all letters traveling between places outside the cities? Suppose, at the same time, we relieved the Postal Service of the duty to provide universal service?

Answer. Whether the delivery of a particular mailing might be done profitably by a private company depends on a number of variables. Not all of the mail for any particular geographic area or service would fall into the "cream" or "non-cream" category. As a result, we do not think it possible to base an amendment to the Statutes on this distinction.

Repealing the restrictions for letters carried between rural areas would be most unwise. Because of the Postal Service's obligation to provide universal service, the total delivery network must remain in place. This creates a situation of relatively high fixed costs as a percentage of total costs. Therefore, any reduction in rural mail volume would exacerbate any revenue shortfall that may already exist at small post offices.

We also do not believe that relieving the Postal Service of the duty to provide universal service would be feasible. In the first place, individuals fiercely protect the level of postal services which they currently receive, as evidenced by the controversy which often accompanies a proposal to close a post office or modify service, and would not tolerate any abandonment of an area of the country. On an operational level, the Postal Service operates a highly integrated network, portions of which cannot be eliminated without affecting the rest of the system. In addition, the system envisioned by the example cited in the question does not appear workable since it does not address the issue of mail moving between urban and rural areas. Any cost savings realized by not having to deliver mail moving within rural areas would be eliminated by having to maintain a delivery network, featuring a high ratio of fixed to variable costs, to handle urban-to-rural and rural-to-urban mail. In general, mail delivery systems, whether rural or urban, are more economically efficient when fueled by higher volumes. Changing the system in any way so as to significantly reduce the volumes moving through it, would result in corresponding revenue reductions.

Question 11. Another strategy might be to abolish the postal monopoly only in downtown areas where we know the market would provide good service. Then all carriers, postal and private, could be taxed so that the postal and private carriers together make the same contribution to other postal operations as is now made by the postal operations alone. Would you care to comment upon the feasibility of such a limited deregulation?

Answer. As we suggested in the response to Question Seven, it is not accurate to assume that all intra-city mail is "cream". We believe that the market would not provide the comprehensive services now available in downtown areas and that private firms would undertake only the most profitable deliveries, leaving the rest to the Postal Service. It should also be noted that the deregulation and tax proposal outlined in this question would apparently result in high administrative costs, in that it would require duplicative delivery systems, would require business to distinguish between intra-city and other mail for delivery and rate purposes (if uniform rates were to be abolished) would require some appropriate authority to assess and collect the contemplated tax, and would add to the complexity of enforcing the Private Express Statutes.

Question 12. How about the international postal monopoly? How can you justify retaining a monopoly over a service which the Postal Service itself does not provide and cannot guarantee?

Answer. The question is partially correct in its assumption that the Postal Service has no control over international mail before it enters the United States or after it is dispatched. The Private Express Statutes apply to international mail only when it moves over post roads or routes within the United States. Nevertheless, we would point out that many of the trading partners of the United States have imposed their own restrictions on what items may be carried by private couriers.

Question 13. What other changes in the law would be required by an abolition of the postal monopoly in any given area? Would there be any need for Commission supervision of postal rates and services in areas in which there is competition?

Answer. Aside from the fact that we find it difficult to envision a satisfactory way in which certain geographic areas could be exempted from the application of the Private Express Statutes, but assuming for argument's sake that this could be done, there would still remain the question of what role would continue to be performed by the Postal Service.

If the Postal Service were to continue to be expected to provide universal service at uniform rates, it is possible that no statutory changes would be required. Depending on the extent to which the limitations on the applicability of the Private Express Statutes caused a diversion of letter mail to other carriers, the resulting diminution of postal revenues might require either an increase in postal rates or, if the diversion and revenue loss was so large as to render compensatory rates politically or economically unacceptable, the appropriation of general tax revenues as a subsidy to the Postal Service. In the event that the latter was necessary, statutory authorization limits would have to be changed and the "break even" requirement in current law repealed. On the other hand, if the Postal Service were to be placed in a position to compete fairly and freely with private firms engaged in the delivery of letters, much more extensive statutory changes would be required. These changes were discussed in the answer to Question G-7.

The authority of the Postal Rate Commission with respect to the rates and services in effect in an area excepted from the coverage of the Private Express Statutes would also depend on the role of the Postal Service in that area. If the Postal Service were allowed to be fully competitive, we see no need for the continued existence of the Postal Rate Commission. We would point out, however, that the Commission now exercises jurisdiction over the rates for newspapers, periodicals, and parcels even though their carriage by the Postal Service is afforded no protection by the Private Express Statutes and mention the potential for confusion given competitive and regulated rate structures for different portions of the United States.

Question 14. If the postal business is a "natural monopoly", as some suggest, is there any reason to bolster this natural monopoly by means of a legal monopoly?

Answer. Recent economic research has shown that it is possible, under certain conditions, that a natural monopoly may require legal protection from potential competitors in order to make it less vulnerable to wasteful and duplicative competition. This research focuses on the multiproduct natural monopoly and the concept of sustainability. A firm is a multiproduct natural monopoly if the cost of producing all its products in one firm is less than the sum of the costs of producing the products in separate firms. The firm is then said to be a natural monopoly, arising from economies of scale and economies of scope. The results of this relatively recent economic research indicate that a natural monopoly may not be able to sustain itself against competitors because of the prices it charges or because of its cost structure. There is good reason to believe that the Postal Service exhibits both economies of scale and of scope and that the characteristics of its cost and price structure may combine in such a way as to make it a natural monopoly that cannot be sustained without legal protection. In this event, it would not be inconsistent for the Postal Service as a natural monopoly to need such protection from competitors as the Private Express Statutes provide.

UNIFORM FIRST CLASS POSTAGE RULE

Question 15. Is there any reason to offer uniform first-class postage for anything but personal correspondence? Why should not a business pay the proper costs of delivery for its nonletter business documents such as bank statements, bills, and so forth?

Answer. We should note at the outset that commercial information, in general and bank statements and bills, in particular, have consistently been considered letters, for the purposes of the Private Express Statutes.

In our response to Question G-4, we pointed out some of the disadvantages of abandoning the uniform rate for First-Class Mail. Principal among these would be the increased administrative costs resulting from a very complex rate structure. We believe that business mailers would suffer great inconvenience if they had to determine the proper rate of postage for each individual piece of mail. For example, business mailers such as major public utilities and direct mail marketing firms who use the mails for advertising, billing, and collection would find this particularly burdensome.

As we speculated in that earlier response, under a non-uniform rate structure, rates would probably vary from place to place and by weight, size, and volume. Other factors such as population density at points of origin and destination, the volume of mail going between two points, and the distance between those points would also affect the rate structure. These rates would probably vary from a little lower than present rates for mail that is easy to carry and deliver to much higher than present rates for mail on routes more difficult to serve, resulting in overall higher rates for some business mailers. The higher administrative costs and the higher rates could depress mail volume and have an adverse affect on business decisions to locate in certain geographical areas or to enter certain geographical markets.

RURAL POSTAL SERVICES

Question 16. In general, what is the best method of public funding of services which may be in the public interest but not commercially self-sustaining? An indirect internal cross-subsidy such as the airlines and the post office have historically used or a direct subsidy appropriated by Congress such as now used to support air service to small towns?

Answer. We would begin by pointing out that the Postal Service is now substantially self-sufficient and, under the provisions of the Postal Reorganization Act and due to Congressional appropriations actions, will be self-sufficient in the immediate future. In addition, the Act prohibits the cross subsidization of one class of mail by another, requiring that each class of mail pay at least the direct and indirect costs attributable to it.

If the "services which may be in the public interest but not commercially self-sustaining" refers to rural mail service, we would reference our response to Question G-20 where we mentioned that the traditional conclusion that rural operations are not financially self-supporting has been based solely on the shortfall between revenues taken in at certain small post offices and their costs. However, these post offices are part of an integrated universal system and deliver mail which originates in urban and suburban areas, but collect none of the revenues for such mail. Many of these rural post offices must be maintained to provide effective and convenient universal service, from which all segments—urban, suburban, and rural—derive benefits. It is stating the case too simply, therefore, to say that rural operations are unprofitable.

It may be unrealistic, moreover, to attempt to draw an analogy between the nationwide provisions of postal services and the provision of air service to certain small towns. The Postal Service must serve every household in the nation, whether or not it is profitable to do so. Air carriers, even though directly subsidized, make no pretense of providing universal service to every small town and, indeed, when a town makes insufficient use of the air service it currently has, it may stand in jeopardy of losing the service altogether.

We think that there are too many possible variables to permit us to generalize as to a single best method of funding public services that are not self-sustaining. Given an abstract choice between an internal cross-subsidy and a direct subsidy, we think that at least the following factors are relevant: the extent to which the dollar amount of any subsidy can be determined with reasonable precision; the extent to which the true beneficiaries of any subsidization can be identified; the extent to which the service is of greater benefit to those who would bear the burden of any cross-subsidy than to the taxpayers; the size of the subsidy in relation to the total cost of the activity which would be the source of any cross-subsidy; and the consequences of a failure to appropriate some or all of a direct subsidy.

Question 17. Does the postal monopoly support postal service to small towns? Exactly how?

Answer. The Private Express restrictions support universal service at a uniform First Class rate by protecting mail volume and postal revenues. Rural or small town service, or inner city service for that matter, is but one indistinguishable part of the fully integrated, nationwide service network and cannot, as we mentioned earier, be successfully isolated from other segments of the network. As we stated in our responses to several questions, rural or urban service includes not only mail which originates in rural areas and which may go to rural, suburban, or urban areas, but also mail which originates in urban and suburban areas and is destined for rural areas. The Private Express restrictions support the entire network and thus support "rural or urban service" to the extent that it is a component of that network. We should be careful not to overdo the rural America theme when we discuss the "break even" mandate of the Postal Service. An argument can be made that a subsidy would be required to support many services in cities where volume and revenue are low.

Question 18. Is there any reason why a direct subsidy system like the one used to support small town air service could not also be used to support rural post service? Could the Postal Service prepare a rough draft of the legislation which would be needed to establish such a system in the postal field?

Answer. The responses to several previous questions have indicated that because of the nature of universal service and the integration of the postal system it is probably impossible to isolate all of the costs and revenues associated with a particular segment of the network. "Rural" mail can be sent by virtually everyone, anywhere and, for processing purposes, is commingled with all other types of mail. Consequently, it would be extremely difficult to determine the amount of the proposed subsidy and to accurately target it, or to draft legislation to implement the proposal.

Question 19. If Congress were to employ a direct subsidy to support rural postal service, how much would it cost? Do you think it would be feasible to fund this through a trust fund established by an excise tax on all document carriers, public and private? Would this be more or less desirable than funding from general appropriations?

Answer. The Postal Service could not predict the amount of subsidy required to support rural postal service. Whether to fund such a subsidy from general revenues or from an excise tax on carriers is a question of tax policy, concerning which the Postal Service has no expertise.

Question 20. To what extent, in practical terms, does the law and the Commission prevent the Postal Service from closing post offices that are losing money?

Answer. Title 39, United States Code, Section 101(b) prohibits the Postal Service from closing a post office "solely for operating at a deficit." The economic savings to be expected from closing an office is but one factor which the Postal Service must consider when deciding to close a post office. Title 39, United States Code, Section 404(b) lists four other criteria, requires adequate notice to patrons served by the office in question, and provides for the appeal of a decision to close an office to the Postal Rate Commission. Since the adoption of these procedures in 1976, significantly fewer post offices have been closed than had previously been the case.

Question 21. What criteria does the Postal Service use to determine whether to close a post office? Surely these criteria provide a measure of the profitability of segments of the service?

Answer. As a general rule, the Postal Service establishes and maintains post offices where they are necessary to provide an adequate level of postal services. Thus, the "profitability" of a particular office will become a factor only when it appears that there is no independent service justification for the continued existence of the office. In practice, the justification for continuing an office is reviewed when some independent event, such as the retirement of the postmaster, or the loss of the lease on the facility, provides an opportunity to review the status of the office.

As required by law, when considering whether to close a post office, the Postal Service would consider the effect of the proposed closing on the community served and the employees at the office being considered for closing, whether the closing would be consistent with the Postal Service's overall obligation to "provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining," and the cost savings which could result. This process would entail an exhaustive analysis of the needs of the community and prevailing retail service costs, but would not address the "profitability" of that segment of the postal network.

Question 22. What criteria does the Postal Service use to decide whether or not to serve a rural route itself or contract it to a contract carrier? Why cannot more of the routes be contracted in exactly the same manner?

Answer. As with the issue of maintaining or closing small post offices, the decision to serve a given portion of the postal delivery network through rural delivery or through highway contract service is based upon service and cost considerations and the availability of suitable equipment and qualified employees. Our response to Question G-22 describes in detail the criteria used to determine whether rural delivery or highway contract service would be appropriate.

POSTAL SERVICE AND INNOVATION

Question 23. In 1975, a Postal Service staff report observed that:

> Many of the standard features of the present postal systems were invented by competitors during the 1840's and 1850's. Private express companies pioneered the adhesive postage stamp, the streetcorner collection box, and the predecessor of special delivery service. It seems likely that a revival of postal competition would produce modern-day innovations of similar magnitude.

Do you agree or disagree with this observation? Why?

Answer. We would like to point out that the foreward to the staff study referred to in this question stated, "This document represents no official views of the U.S. Postal Service or any other agency of the U.S. Government."

As we stated in the answer to Question G-2, it is not really possible to know what might have happened had different circumstances prevailed in the past or might occur under varying conditions in the future. As a general matter, of course, competition may encourage innovative thinking. So may other factors in an organization's environment, such as the freedom and the rsources to implement innovations that might not otherwise be developed.

Question 24. In the Postal Service's answers to the Subcommittee's questionnaire, the Postal Service stated that it had "pioneered the now rapidly expanding overnight delivery industry" (p. 5) and that private express delivery firms as a rule fail to serve the broad geographic area that the Postal Service serves (p. 11). This statement seems to undertate the role of the private carriers somewhat in the development of this innovation. A study of couriers was included with the 1973 Board of Governors' report on the Private Express Laws. This report, written in May 1972, noted that:

> The largest volume of "letters" carried outside the mails . . . is likely handled by courier companies. . . . In addition to the practical problems of detecting such violations and enforcing the (Private Express) Statutes, there may be serious equitable considerations. Primary among these is whether a postal service is offered which is comparable to that of the courier in terms of convenience, celerity, certainty, and cost. The answer has been negative in numerous investigations. (App. E at 13)

Does his report not suggest that the private couriers and not the Postal Service truly pioneered express services?

Answer. As was stated in the answer to Question G-27, "the history of the market shows clearly that the Postal Service was the first participant". Certainly, private firms have followed the pioneering efforts of the Postal Service in this field and offered new services. The portion of the report cited in the question (*Statutes Restricting Private Carriage of Mail and Their Administration*, House Committee on Post Office and Civil Service Committee Print No. 93-5, 93rd Congress, First Session, June 29, 1973) indicates that the overnight delivery service then offered by the Postal Service did not meet all of the needs of its potential users, principally because of the lack of evening collections, and thus drove them to use private couriers. With respect to current usage, it should be noted that there are differences in the overnight services offered by the Postal Service and private courier firms, such as the unique advantages of Express Mail mentioned in the answer to Question G-5. In view of this circumstance, there is room for both Postal Service and private sector involvement in this market. It should also be pointed out that in response to a demonstration that the public interest would be served, the Postal Service suspended the application of the Private Express Statutes to the carriage of "extremely urgent letters"

POSTAL TELECOMMUNICATIONS

Question 25. With respect to the Postal Service's ECOM service, could you identify exactly what aspects of this service would, in your opinion, not be provided by private telecommunications companies? If there is a profit to be made, why would not private companies provide such services? If there is no profit, why would the Postal Service seek to provide the service?

Answer. The major aspect of the E-COM system which private firms cannot and will not offer is its nationwide hard-copy delivery network. E-COM is an effective marriage of private sector and government services, telecommunications technology and traditional postal practice, to better serve the public interest and meet the articulated needs of postal customers. In addition, the E-COM system is open to a multiplicity of communications common carriers and potential users Lastly, it must be remembered that the Postal Service portion of E-COM service is, by statute, a break-even proposition, while the charges levied by common carriers for their services are based upon the private sector's profit motive.

Question 26. What exactly is the statutory provision which authorizes the Postal Service to provide electronic mail? Would the statute authorize the Postal Service to deliver mail electronically as well as receive it in electronic form? If the Postal Service is authorized to use computers to electronically assemble letters from a mailing list and standard text, is the Postal Service also authorized to assemble paychecks from payroll data? Monthly bills from credit card receipts?

Answer. The Postal Service's statutory authority to offer E-COM service was discussed in a January 21, 1982 pleading filed *In Re United States*, No. 81-2402, D.C. Circuit, April 20, 1982, a copy of which was an attachment to the response to Question G-41. In general, the Postal Service is directed and empowdered to provide postal services and determine the best means to provide them. The Postal Service sees E-COM as the next logical step in the evolution of efficient mail transportation, from vehicles to trains to airplanes to electronic transmission. With respect to the specific services mentioned in the question, it is unclear whether they would constitute "postal services". We should also stress the consistent policy of the Postal Service that it will not and should not provide so-called Generation III message services.

POSTAL SERVICE AND RATE COMMISSION AS INSTITUTIONS

Question 27. Chairman Steiger has suggested that the Commission be given subpoena authority vis-a-vis the Postal Service. Do you support this suggestion? Why?

Answer. The Postal Service is opposed to a grant of subpoena authority to the Postal Rate Commission since such a grant would be inconsistent with the Commission's purposes and responsibilities. While a grant of subpoena authority may be warranted for a public utility regulatory body charged with overseeing the return on investment of a publicly held firm, this would not hold true with the Commission, which is not a regulatory agency but a body tasked with rendering recommended decisions. The Governors of the Postal Service determine the appropriate action to be taken on those decisions. The distinction between the Commission and a regulatory agency was recognized in *Governors of the U.S. Postal Service* v. *Postal Rate Commission*, 654 F. 2d. 108 (D.C. Cir. 1981).

The statutory scheme concerning ratemaking consists of a careful balancing of the duties and responsibilities of the Postal Service and the Commission, requiring both agencies to be sensitive to and responsive to each other's needs so as to expedite proceedings. The Postal Service already supplies an abundance of data to the Commission during rate proceedings—over 1,500 pages of testimony, 4,000 pages of workpapers, 54 library references comprising 7,000 pages, 6,000 responses to interrogatories, and several responses to Commission Notices of Inquiry during the last general rate proceeding alone. Lastly, we would point out that under current practice the Commission requires information not related to specific rate or classification proposals. Attachment 2 is a list of the periodic reports required of the Postal Service by the Postal Rate Commission. In addition, Commission Docket No. MC76-5, a series of long-range classification studies, has generated over 90 library references over several years. In short, the Commission has had no difficulty in obtaining the information necessary to perform its function.

Question 28. Chairman Steiger has also suggested that the Commission's decision be the final administrative decision on a rate or classification, eliminating the Board of Governors as an appellate body? Do you support this suggestion? Why? What changes, if any, should be made in the charter of the Commission in order to allow it to do its job more effectively?

Answer. The Postal Service opposes granting final decision authority to the Postal Rate Commission. In a study published on July 1, 1982, the National Academy of Public Administration while noting that several changes in the rate-setting process deserved consideration, rejected final decision authority for the Commission, mentioning the difference between the Commission and a utility regulatory body and the exercise of Congressional oversight over the Postal Service. Under current law, the Governors of the Postal Service, who bear the responsibility for maintaining a viable and economically healthy postal system, are given final rate authority, subject to the limitations on the actions they may take on a recommended decision of the Commission set forth in title 39, United States Code, Section 3625.

The only substantive change in the Commission's charter which the Postal Service might suggest is the separation of the Commission's budget from that of the Postal Service. This would perhaps insure direct accountability to the Congress and enhance the independence of the Commission.

Question 29. Over the long run, should the Federal Government be in the document delivery business at all? Why should not such services be provided by the private sector, perhaps under some sort of governmental regulation, like the telecommunications services?

Answer. The question of whether the Postal Service should remain a Federal function was considered by the President's Commission on Postal Organization in the late 1960's. The result of the process which the Commission began was creation of the Postal Service. There is every reason to believe that the American people wish the Postal Service, as a Federal agency, to continue providing the comprehensive, universal mail delviery service which it now provides.

If this question is concerned, in a more limited way, with the role of the Federal Government in delivering materials other than correspondence, we think that the answer is if anything, even more clear. So long as the Postal Service is providing universal delivery service, there is no reason to deny it the authority to continue to deliver all forms of documents.

ANNUAL REPORTS

(1) Revenue and Cost Analysis Report.
(2) Cost Segments and Components.
(3) Audited Financial Statements (PMG's Annual Report).
(4) City Delivery Statistics National Totals.
(5) Rural Carrier National Statistics.
(6) Civil Service Retirement Fund Deficit.
(7) Workmen's Compensation Report.
(8) Annual Budget.

QUARTERLY REPORTS

(1) Revenue, Pieces and Weight by Classes of Mail and Special Services.
(2) Origin/Destination Information Report National Service Index.
(3) Investment Income Statements.

ACCOUNTING PERIOD[1]

(1) Cash Flow Statement.
(2) Summary Financial and Operating Report.
(3) Trial Balances (not required by PRC Rules but furnished at PRC's request).
(4) National Payroll Hours Summary Report.

OTHER REPORTS

(1) Before/After Pay Increase Reports.
(2) Before/After COLA Cost Report.
(3) Copies of Handbooks relating to internal information systems and periodic supplements and updates of such handbooks.

Senator SYMMS. The next witness is Bernard J. Wunder, Assistant Secretary for Communications and Information, Department of Commerce; and Pat Murphy, Acting Associate Director for Subsidy Policy and Programs, Civil Aeronautics Board.

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[1] A postal accounting period is 4 weeks in duration.

Mr. Murphy and Mr. Wunder, welcome to the committee and go right ahead, Mr. Wunder.

STATEMENT OF BERNARD J. WUNDER, JR., ASSISTANT SECRETARY FOR COMMUNICATIONS AND INFORMATION, DEPARTMENT OF COMMERCE

Mr. Wunder. Thank you, Senator. I have a prepared statement and, with your permission, I'd like to have that inserted in the record.

Senator Symms. Without objection, your entire statement will be printed in the record and you may summarize it if you wish.

Mr. Wunder. First, Senator, let me say that the administration has taken no final action on a decision on whether or not we would support or not support repeal of the Private Express Statutes, but just as you're doing, we are looking at the question.

I would say that the matter arose as a result of our inquiring and looking at the question of the Post Office E-COM offering which we did oppose, which the Justice Department litigated and is still litigating in an effort to stop the Post Office's entry into that activity.

As a general proposition I would say, however, though, that we believe that competition will best serve the public interest and, second, I'm aware of no factual basis for retention of the Private Express Statutes.

Interestingly enough, the President before he was President wrote one article and had one of his radio commentaries directed to this subject and he urged at the time the decriminalization of the postal laws, and what brought the issue to bear on the President at the time was the case of Ms. Brennan, who was one of your witnesses at your last hearing.

Let me say, Senator, that this came to me also in listening to Postmaster General Bolger's testimony, that the arguments that are made for retention of the private express statutes are exactly the same arguments that were made by the telephone industry starting in the late 1960's and early 1970's when the FCC undertook to introduce competition into telecommunications. The universal service, the problems in rural areas, higher rates—none of those have come to fruition as a result of 11 years of competition in the delivery of telephone services.

One point that Postmaster General Bolger made was that he anticipated growth in the number of hard copy deliveries that have to be made. That is exactly the same thing that happened in the telephone industry. We have competition, we have growing competition, we have growth in the market, and the telephone industry has not been hurt and competitors are growing.

In terms of the poll that you mentioned, I found that interesting because you don't hear people making the arguments that they made about competition years ago, and I think one of the things that was positive for them was the fact that Lou Harris does some annual polling on behalf of AT&T and what those polls show by an overwhelming majority was that the American people wanted alternatives to the telephone monopoly. They favored retention of the universal network that AT&T had, but they did want a choice. And that is the policy that the Government has followed for some time with the telephone service.

So, in summary, I would say we have taken no position. We have looked at the question. We will continue to look at it, but in our personal view I don't at this time see a very compelling reason for the retention of the private express statutes. Thank you.

[The prepared statement of Mr. Wunder follows:]

PREPARED STATEMENT OF BERNARD J. WUNDER, JR.

Thank you for inviting me to discuss some of the important public policy issues presented by the limited monopoly over letter delivery the U.S. Postal Service (USPS) now enjoys under the private express laws.

Interests of NTIA and Commerce

By way of introduction, my agency is the National Telecommunications and Information Administration (NTIA), which is part of the Department of Commerce. Over the past four years, NTIA has developed considerable familiarity with postal policies chiefly as a consequence of our extensive involvement in the "electronic mail" controversy. Our expertise and principal responsibility lies in the field of electronic communications. As part of the Commerce Department, however, we have other broader interests at stake here. Effective mail and document delivery systems are critical to the smooth operation of our free-enterprise economy. American business is the main user of these conventional communications systems; it pays the largest share of increasing Postal Service costs. Inefficiencies in mail delivery systems produce ripple effects throughout our economy. American business also bears significant opportunity costs as a result of the present limited USPS monopoly. In many instances, businessmen may be needlessly denied the chance to use more "target efficient" delivery options because of the private express laws. While NTIA thus approaches many postal questions from its perspective as an expert telecommunications agency, it should also be noted that the broader constituency the Commerce Department seeks to serve, American business, also has a direct and important stake here.

Traditional Procompetitive Policies

The United States traditionally has relied on the premise that minimal Government involvement, and maximum possible competition, will best further the public's interests. */ Competition, of course, tends to promote price and service diversity and as well as innovation. It expands customer choice. It has proven the most reliable means of achieving the most efficient allocation of resources possible. **/ In an effectively competitive marketplace, suppliers have to consider production costs against the prices people are willing to pay. Suppliers are required to search out the most inexpensive combination of input costs. Effective competition tends to ensure that firms will be held fully accountable for their marketing decisions and practices, and it thus encourages them to put forth their best efforts to achieve success. A competitive marketplace, therefore, tends to ensure maximum service diversity, innovation, efficient resource allocation, and marketplace discipline -- all goals that are especially important to our economy today.

Limited Exceptions to Serve Clearly Defined Public Purposes

Congress obviously has determined that in some few fields, our fundamental national commitment to competition must be tempered by other considerations. The limited monopoly that the Postal Service now enjoys over the delivery of letter mail is such an example. ***/ Reviewing courts have ordinarily required in these instances, however, that any deviations from the competitive norm be narrowly drawn, and limited to the extent necessary to achieve some clearly defined public policy purpose that could not otherwise be accomplished. */ The trend in a number of regulatory contexts in recent years, moreover, has been increasingly to require some showing that the public policy benefits of a monopoly exceed its direct and opportunity costs.

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*/ See, e.g., National Assoc. of Professional Engineers v. United States, 435 U.S. 679, 692 (1978); Cantor v. Detroit Edison Co., 428 U.S. 579, 583 (1976); United States v. Topco Assoc., 405 U.S. 596, 610 (1972); United States v. Philadelphia Nat'l Bank, 374 U.S. 321, 350-51 (1963).

**/ See, e.g., Connell Constr. Co. v. Plumbers & Steamfitters Local, 421 U.S. 616, 623 (1975); Northern Nat. Gas Co. v. FPC, 399 F.2d 953, 959 (D.C. Cir. 1968).

***/ See Associated Third Class Mail Users v. U.S. Postal Service, 485 F.2d 768 (D.C. Cir. 1978). Cf. USPS v. Greenburgh Civic Assoc., 453 U.S. 114 (1981).

Absence of Fact-Based Evidence

We are unaware of any clear factual case for the present limited USPS monopoly. Nor do we now know precisely what generally accepted public policy purpose the private express laws are intended efficiently to further. In the past, the contention was that the Postal Service was a "natural monopoly," and to sanction competition with it would thus be wasteful and inefficient. There are several obvious flaws, however, in this contention. First, as found in the second major Postal Rate Commission rate case, there is today little credible economic evidence showing declining average costs to scale in the Postal business, or few of the other economic indicia normally associated with a "natural monopoly." The capital investment of the Postal Service is modest, compared with other public utility-like services ordinarily thought to be "natural monopolies." The largest fixed cost appears to be labor. Postal costs per item appear to stay flat or, indeed, even to increase with increased volume. As Judge Wenner thus noted in his opinion, about the only evidence adduced to date that shows the presence or absence of "natural monopoly" characteristics in the Postal Service today

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*/ See, e.g., *Community Communications Co*. v. *City of Boulder*, __U.S.__,__, 50 USLW 4144, 4146 (January 13, 1982); *City of Lafayette* v. *Louisiana Power & Light Co*., 435 U.S. 389, 406 (1978); *FMC* v. *Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238, 243 (1968); *Carnation Co*. v. *Pacific Westbound Conf*., 383 U.S. 213, 218 (1966); *Mid-Texas Commun*. v. *AT&T*, 615 F.2d 1372, 1375 (5th Cir. 1980). Cf. *Buckley* v. *Valeo*, 424 U.S. 1, 44-45 (1976).

is the testimony of USPS management, many of whom are convinced that theirs is indeed such a business. */

A second difficulty with the "natural monopoly" thesis is that much of what the Postal Service now does is already subject to competition. The Postal Service obviously competes with small package delivery firms, such as United Parcel and Purolator, as well as an expanding number of air express firms. The Postal Service already competes with the newspaper business in delivering advertising supplements and other materials to the home. By virtue of the "time sensitive mail" exemption from the private express laws, the Postal Service and the courier industry are now and have been in vigorous competition. I might add that in none of these instances is it clear that any of the Postal Service's "natural monopoly" characteristics have afforded it decisive competitive advantage.

"Natural monopoly" seems less a justification for the present Postal monopoly than the practical result of it. Put another way, we have seen and developed no economic evidence that would convincingly support maintaining the present monopoly situation with respect to certain classes of letter mail. Such evidence may exist; but we have not yet seen or reviewed it.

Another traditional rationale for the Postal monopoly is the need to maintain efficient and effective letter delivery services, especially in remote rural areas. The contention is advanced that some parts of our country can be served only at a substantial loss, and thus a monopoly over the higher profit markets is essential to preserve the Postal Service's ability to cross-subsidize low profit or no-profit rural routes.

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*/ See Postal Rate & Fee Increases, 1973 (Docket No. R74-1), Initial Decision, vol. 1 at pp 78-82.

Once again, there are flaws in this traditional argument. Cross subsidization creats inefficiencies, because it distorts prices relative to costs. Undoubtedly, conditions for rural users will change under a competitive postal service, where prices will be forced to more closely correspond to costs. Prices may rise for the existing rural delivery service. However, the result may be that many rural users do not value home delivery highly, and they can be content to pick up their mail at a central post office at a commensurably lower price.

Even if the price were to rise for each letter so as to adversely affect low income individuals, direct income subsidies are a more efficient method for resolving poverty than subsidizing the prices of given products.

In a competitive environment, prices for particular services will tend to reflect their costs with attractive efficiency producing results. Consumers who want home delivery could pay a fixed fee for that service, which reflected their long term prorata share of the costs of the local distribution system. Then, other services would tend to be provided at their marginal costs, e.g., letters and packages. By increasing efficiency, the total cost per letter sent and received would be reduced.

Need for Further Study

These exploratory hearings will serve an invaluable purpose, by affording the Postal Service and others an opportunity clearly and factually to demonstrate why the present Postal monopoly is needed. Congress, in passing the 1970 Reorganization Act, instructed the Board of Governors of the Postal Service carefully to survey and report on whether there remained any justification for the private express laws. It is now some ten years since the

Postal Service advanced its case for retaining these monopoly statutes. Given all of the tremendous changes in our economy and society as a consequence of ensuing developments, including the energy crisis and the very rapid emergence of telecommunications alternatives, it seems highly desirable for Congress to investigate this area again.

The Administration has reached no final conclusions regarding the feasibility or desirability of reducing the scope of the private express laws, or, indeed, eliminating any or all of them altogether. I intend to study the record of these exploratory hearings carefully. My suspicion, however, is that the public policy or economic case for retaining these laws is weak, particularly since there are probably alternatives available to achieve any clearly defined public purposes.

Relevant Telecommunications Experience

Virtually all of the arguments for retaining the present Postal monopoly have analogs in the telecommunications field. Until about a decade ago, telecommunications was overwhelmingly dominated by a single, monolithic firm. Little, if any, effective competition was legally sanctioned in the three principal parts of the common carrier telecommunications business: equipment, long-distance services, and local exchange. The ostensible purpose of the tight monopoly enjoyed by established carriers, including AT&T, was to ensure the universal availability of basic telephone service at affordable rates. Regulators had generally prohibited new, competitive entry into any part of the field on the ground that competition would result in "cream-skimming," changes in "nationwide rate averaging," "inevitable service degradation," and precipitous service reductions, especially, again, in those remote rural areas.

Facilitated by changes in technology and a series of landmark Federal Communications Commission decisions, however, intensifying competition now characterizes at least two of the three principal parts of the telephone business -- the equipment and long-distance services sectors. */ None of the predicted adverse consequences of competition have yet materialized; indeed, the exact opposite has been true. Service quality has not declined; in fact, there is some evidence that it has improved, as newer equipment has been brought into use both by the established industry and customers faster. Major new companies and employers have developed. In 1981, for example, the "interconnect industry" -- non-AT&T affiliated equipment suppliers -- included more than 1500 firms and enjoyed domestic sales exceeding $1.4 billion, or about four times the level in 1977. A number of new long-distance service suppliers, such as MCI, have emerged. Total revenues for these service suppliers last year were about $600 million, or more than six times 1977 levels. See 1982 U.S. Industrial Outlook at pp 228, 371. Aggregate demand for both equipment and services appears to have accelerated with increased competition. While AT&T's market share has slightly declined, overall revenues of the firm are up significantly, as are profits. An old marketing rule of thumb teaches that competition does not destroy markets, rather it tends to build them, by stimulating demand for the relevant services and products. This seems to be what has happened in the communications business.

This competition, moreover, has had no known adverse impact on significant customer groups anywhere in the country. Virtually all consumers today have the option to lease or buy phone equipment of their own choosing. Competitive long-distance services are now available in all but the most remote rural

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*/See, e.g., North Carolina Util. Comm'n v/ FCC, 537 F.2d 787, 552 F.2d 1036 (4th Cir. 1976-77); MCI Telecom. Corp. v. FCC, 561 F.2d 365, 580 F.2d 590 (D.C. Cir. 1977-78). See also Carterfone, 14 F.C.C. 2d 571 (1968); Specialized Carriers, 29 F.C.C. 2d 870 (1971). See generally Note, Competition in the Telephone Equipment Industry: Beyond Telerent, 86 Yale L.J. 538 (1977); Note, Intercity Telecommunications Competition After Execunet, 31 F.C.B.J. 117 (1978).

areas, and there are no technical -- and few economic -- reasons why such service options should not soon be available there. Rates have not "skyrocketed" as a consequence of competition, though they have risen slightly -- a function primarily of inflation.

We have recognized, of course, that there are potential transitional questions raised by intensifying competition in the telecommunications field. Because we are sensitive to these transitional equities concerns, we have indicated support for reasonable, target-efficient ways of ensuring that the rates for basic phone services do not rise precipitously, or the level of service available does not decline. The access-charges mechanism that the Administration has generally indicated it could support is one means of ensuring reasonable rate stability in the telephone business. This kind of "safety net" is similar in approach to those proposed in other deregulation contexts. While we have taken these precautionary steps, however, I want to emphasize again that experience with competition in the telecommunications field has been overwhelmingly positive.

Conclusion

I want to stress, in conclusion, that we fully appreciate the public and commercial need for modern and efficient mail and document delivery systems. There is no fundamental disagreement as to basic goals between us and Postal Service management, for example. While we may differ as to the value of greater competition in the Postal field, no final decisions have been made. These exploratory hearings are a valuable and necessary start in what is likely to be an extensive and time consuming process. My agency, NTIA, and the Commerce Department as well stand ready to provide the Subcommittee with whatever additional information it believes would be useful.

Senator SYMMS. I want to hear from Mr. Murphy, but since you said that, what about Senator Goldwater's statement that the burden of proof is on those who wish to change the private express statutes? In his opinion, we have not met the burden of proof.

Mr. WUNDER. I don't know what the burden of proof would be, No. 1.

Senator SYMMS. Well, his point is that the mail deliveries are really uniform and pretty equitable across the country and it's something that's needed and until you can prove what you can replace it with you shouldn't change it.

Mr. WUNDER. Well, I don't know if anybody is talking about replacing it. Just as when we introduced competition in the telephone service, we certainly didn't replace AT&T. What we have done is insert a measure of competition. As a general fact, Senator Symms, telephone service has improved as a result of the introduction of competition.

I would say to those who say the burden of proof is on those who would want to change them, I think that's a rather strange statement, given the free enterprise and procompetitive stance of the United States. I think the burden of proof should be on those who would urge monopoly over competition.

I think what's happened here and what I'm suggesting is that we've come to a point in time when we can begin to look at the question of competition for the Postal Service because we do have universal service, just as in 1934 there was not universal telephone service in this country and one of the primary goals of that act was to achieve that end. When the FCC undertook to authorize competition in the area is when that goal for all intents and purposes, except for some very remote rural areas, had been achieved, and it has not led to diminution of service. It has not led to any degradation of service. It's led to more choice for the consumer and lower rates.

Senator SYMMS. I thank you very much for that answer. Mr. Murphy, we'll hear from you and then I'll have some more questions for both of you.

STATEMENT OF PATRICK V. MURPHY, JR., ACTING ASSOCIATE DIRECTOR FOR SUBSIDY POLICY AND PROGRAMS, CIVIL AERONAUTICS BOARD

Mr. MURPHY. Thank you, Senator. I have a prepared statement that I would like to insert in the record and I will just summarize it.

Senator SYMMS. Your entire statement will be made part of the record.

Mr. MURPHY. I'd like to describe for just a few minutes the Board's experience with subsidy, especially in providing air service to small communities.

Today, the Civil Aeronautics Board administers two subsidy programs. One would be the 44-year-old subsidy program that goes back to 1938 which was designed to develop air carriers. That program has been quite successful since most of the major airlines that we all know today were recipients of those funds at one time or other.

However, as deregulation came about, it was decided that type of subsidy was no longer appropriate, so the Congress decided in 1978 to phase out these developmental subsidies and to phase in the direct subsidy to provide air service to small communities.

The old subsidy program amounted to $2 billion over the 40 years that it was administered. In the last 3 years, as part of deregulation, it has amounted to approximately $75 million a year.

Senator SYMMS. How many billion to $75 million?

Mr. MURPHY. $75 million per year, Senator, and $2 billion over the life of the program.

Senator SYMMS. How much did we used to have in the subsidy program?

Mr. MURPHY. $75 million a year was the old subsidy rate. Today projecting the new subsidy program will run about $45 million.

Senator SYMMS. So it's substantially less, particularly considering the decline in the value of the dollar over the years?

Mr. MURPHY. It actually, Senator, last year, with the old program and the new one, the combined subsidy was a little over $100 million. Next year we're predicting $48 million or approximately one-half savings in subsidy dollar.

With the new subsidy coming in, Congress decided that they did not want any community to lose its air service as a result of deregulation so they placed with the Board responsibility to administer an essential air service program which means that 750 communities are guaranteed air service for 10 years. And the Board is also left with the difficult task of defining what is essential air service for every one of these communities.

Generally, that definition has amounted to two round trips a day to a hub airport. For some communities, it's two round trips a day to each of two hub airports.

The new subsidy program differs from the old one in three fundamental respects. No. 1, it is geared to the specific needs of communities, not to the development of airlines. Second, it is not limited to the major certificated air carriers. As a matter of fact, the program relies almost entirely on what we call commuter airlines. Those are airlines operating aircraft under 60 seats. Finally, under the new program we can only subsidize essential air service.

We have two types of subsidies within the essential service program. One is the holding subsidy. As the carriers are moving to a deregulated environment, some of them are abandoning their small communities. The Board in those cases can hold the carriers in place until they find a replacement carrier. We spent only about $18 million total over 3 years holding carriers in place.

Beyond that, we have the heart of the program which is the long-term subsidy for the commuter carriers. This covers the commuter carrier's losses plus provides them a return on investment. Generally, we have set fixed rates for these carriers. We negotiate a 2-year fixed rate. If the carrier is able to generate more traffic than he forecast or we forecast, he's able to keep extra profits. Of course, if he carries less traffic, he absorbs the losses.

But we've found the fixed rate provides the most incentive to develop markets. Our approach is the opposite of the cost-plus system. The subsidy is paid to these carriers on a monthly basis.

I might add, this is not a low-bid system. We do not seek the lowest bid. If there's one thing we learned in administering this program it's that passenger air service is too complex to go out for bids and really respond to lowest bidder. What we look for is the best price-quality tradeoff and the Board selects from the various applicants.

Now one question is how do we get these applicants? Basically, when a carrier says he wants to leave a community, we go out with a solicitation for proposals. Within 30 days we receive those proposals and, by the way, there's no shortage of proposals—we have 250 commuter air carriers in this country and hundreds of air taxis—we then meet with the applicants on an individual basis, go over their proposals, and agree to what would be a fair rate for them.

Finally, we inspect each of the applicants onsite to make sure that they're capable of providing air service. Then the Board makes a selection. This process usually takes about 4 months.

We are now coming to the end of the 406, the old subsidy program. As I said to you a moment ago, last year we spent $108 million in subsidy. Next year with the new program fully in place, we expect to pay $48 million. The reason we can save so much money is a twofold reason. First, the commuter air carriers in many cases pick up these small communities with no subsidy. They replace a subsidized carrier with nonsubsidized air service.

Second, when they do provide subsidized service, they do it at a fraction of the cost. We have been averaging $267,000 per point per year under the new program. Under the old program we averaged $718,000 per community per year.

One last thing I'd like to mention is that Congress also built into the new program a bumping rule which starts next year, which means if any carrier feels it can provide air service cheaper or better than the incumbent subsidized carrier, they can file an application to bump that carrier off the route. If they can prove to the Board they can do that, the route and the subsidy is theirs.

Thank you, Senator.

[The prepared statement of Mr. Murphy follows:]

PREPARED STATEMENT OF PATRICK V. MURPHY, JR.

Thank you for inviting me here today to explain the Board's Essential Air Service Program and in particular our method of subsidizing air service to small communities.

Before I explain the subsidy program which we have developed because of the changes brought about in air transportation by the Airline Deregulation Act of 1978, I would like to briefly describe the Board's general experience in the subsidy area.

The first program for subsidized air service in which the Board was involved dates back to 1938 when the Board's predecessor, the Civil Aeronautics Authority, was founded. Authorization for government support of air service was included in the Civil Aeronautics Act of 1938 and is typically referred to as 406 subsidy.

The intent of the original law, which remained basically unchanged for 40 years until the Airline Deregulation Act, was to aid the development of a national air transportation system by providing assistance to air carriers until they achieved self-sufficiency. The idea was that if the carriers were financially stable they would continue to provide service and expand their operations. Consequently, the Act dictated that the Board take into account the financial need of each carrier in establishing subsidy rates.

While this approach worked well in building a transport system and gradually nurturing carriers to self-sufficiency, it was not very cost effective in procuring small community air service. As carriers developed and became more financially successful they began to acquire larger aircraft that were not well suited to serving the smaller points on their systems. The "carrier need" requirement also meant that profitable services cross-subsidized their non-profitable services. These two factors -- cross-subsidization and the move to larger aircraft -- provided little incentive to carriers to maintain good service to small communities. In fact, service declined in quality and quantity in the 1968-1978 period while subsidy costs for the services increased.[1] The total developmental costs over the 40 years from 1938 to 1978 has amounted to two billion dollars. For the three fiscal years preceding the Airline Deregulation Act, the Board paid $72.3, $78.1, and $75.3 million dollars in 406 subsidies primarily for service to smaller communities.

The Airline Deregulation Act of 1978 (ADA) ended most government regulation of domestic air carrier routes and rates, on a phased basis. Air carriers were given more freedom to commence service at new cities as well as to discontinue services which they no longer wished to provide. To ensure that small communities did not lose air service as result of the airlines' new freedom, the ADA established the Small Community Air Service Program which guarantees for ten years air service to all communities listed on an air carrier's operating certificate as of October 24, 1978, the date the law was enacted. The program also provides for the payment of Federal subsidy to support these services. The overall program involves guaranteed service to over 750 cities. With only general guidelines, the Board was given the substantial discretion to establish the details of the Small Community Air Service Program, including the level and quality of service to be provided, the procedures and selection criteria for securing replacement services and the policy for setting the rates of compensation for essential air service.

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[1] 129 cities lost certificated air service while subsidy rose from 55.2 to 75.3 million dollars.

Generally what we mean by "essential" air service is that service which provides a community access to the national air transportation system and/or service to some larger community to which it has close commercial, geographical and political ties. Our general policy has been to guarantee at least two round trip flights weekdays and over the weekend period to the point's primary community of interest. Service must be with twin engine aircraft having convenient passenger cabin access. Two pilots are required. The capacity level guaranteed depends on the community's historic traffic generating capability subject to a daily ceiling of 80 seats inbound and 80 outbound from the point. The limit on 80 available seats is based on our economic analysis that service with appropriate-sized aircraft can be provided without subsidy support if the community enplanes 40 or more passengers a day and, thus, that Government funds should not be spent on service beyond that level.

The subsidy program under the new section 419 to support these services differs in three fundamental respects from the old 406 program. First, the new program is geared to the specific needs of the small communities, rather than the overall financial needs of the carrier. Second, the new program is not limited to certificated carriers. In fact, the vast majority of compensation is paid to commuter carriers, that is, air carriers that provide scheduled air service with aircraft having 60 seats or less. Smaller carriers were included because their smaller aircraft are more efficient to operate in short-haul markets and more appropriately-sized for the traffic levels at the smaller communities. Consequently, they were the most likely candidates to serve the communities. Third, under the new program, we can only subsidize "essential" air services. We cannot provide compensation either to points not qualifying as "eligible" under the Act or for services in excess of the essential air service level we have determined for the community.

The program provides for two distinct types of compensation that can be paid to carriers. The first is for forced services. If a carrier is required to continue service in a market after filing notice of its intent to discontinue such services, the Board is required to compensate the carrier for the losses it incurs in providing the service until we find a replacement carrier. Except in unusual circumstances this is paid for only a short period of time. Carriers providing this service are generally paid on a monthly basis pending selection of a replacement carrier and are required to file operational and cost data to support their loss claims. Since enactment of the Airline Deregulation Act, we have paid approximately 18.7 million dollars in force-in subsidies.

The second type of subsidy is the heart of the program. This is longer-term compensation, or rates set for future periods in markets where the carrier wishes to serve but cannot without compensation.

In setting these subsidy levels our goal is to ensure that the rate reasonably compensates the carrier for its provision of essential air services, or, in other words, covers the carrier's losses for providing the service plus a reasonable return while still encouraging the carrier to provide the service in an efficient manner and to develop the market, hopefully to the point of self-sufficiency.

To accomplish this goal the Board has favored a fixed rate approach. This approach allows the airline to keep the benefits of developing the market and, conversely, requires it to either absorb or share in absorbing the extra costs caused by inefficiency. Thus, the fixed rate allows us to rely upon the carrier's profit motive to encourage efficiency and market development rather than imposing conditions which might interfere with management preogatives. Our normal fixed rate period is one or two years.

A variation that the Board has tried is the shared incentive rate. This permits the Board and the carriers to share the risks and benefits of deviations from projected results. That is, the Board absorbs some of the shortfall below projected profits or conversely some of the excess profits. This affords the airline some protection from unsatisfactory results and, consequently, is also less likely to cause service disruptions once operations have begun than a fixed rate that turns out to be too low. Yet it still provides inducements for market development and efficiency. We have used this type of rate very infrequently, however.

The Board's approach is the opposite extreme to setting rates on a cost plus system. By that I mean a system whereby the Board would agree to cover any losses the carrier incurred. That type of subsidy clearly offers no inducement for efficient operations.

In paying carriers, our policy is to pay on a monthly basis based on the service the carrier actually provides. If the carrier does not provide the service level agreed to, its subsidy is decreased accordingly. As the compensation is usually "paid out" on a per mile flown or per departure basis, this is fairly easily controlled.

A final point I want to make is that the 419 program is not a low bid system. We are not looking for the cheapest way to purchase air services. In fact, the Act specifically directs us to secure reliable service with high performance standards that facilitate continuity in service, and to pay fair and reasonable compensation for these services. The low bid may not necessarily meet these criteria. If there is one thing we have learned, it is that a pure low-bid system would not work. There are too many variables to set specifications that would allow an effective low-bid system. Rather, we review all proposals and the five member Board selects the proposal that offers the best quality/cost tradeoff.

The process of obtaining replacement services goes something like this:

Within weeks of receiving notice to terminate service, the Board issues an order soliciting proposals to provide replacement essential air service at the affected point (unless a qualified carrier convinces us it can begin such service without subsidy).

Orders seeking proposals contain standard information requests to cover fitness requirements plus standard formats for requesting subsidy, and, finally, questionnaires aimed at obtaining information which indicate the degree of reliability with which applicants may be expected to carry out their proposals. The fitness information includes data for us to assess the qualifications of the carrier's management, its financial posture and its compliance disposition. The reliability information primarily includes data on the carrier's fuel accessibility, availability of back-up aircraft, historic performance levels and maintenance practices. For rate setting purposes we require the carriers to provide us with historic operational and cost data. This allows us to measure the accuracy of their forecast costs and loss estimates.

Thirty days after we request proposals, we receive them. In most cases there is no shortage of qualified applicants since there are over 250 registered commuters and thousands of air taxis. When service proposals are received they are evaluated in terms of how well they meet essential air service requirements, and proposed subsidy levels are measured against experience in other similar cases plus the average costs of operating similar equipment by other carriers. Informal conferences are held with the various applicants to review rate proposals. This is done to assure that the numbers on which the Board will make a carrier selection are as accurate as can possibly be forecast.

In addition, on-site inspections are performed to ascertain if the carriers are equipped to reliably carry out the essential service. This is a crucial step and one we added only after some unreliable carriers were selected in the early months of the program.

After the staff analysis and evaluation are completed and we have received the views of the community, recommendations are prepared for the Board which makes the decision. The selection process from the time we request proposals to the time a replacement carrier commences its service averages approximately four months.

We are currently subsidizing service to small communities under both the old 406 and the new 419 programs. Until a carrier receiving 406 subsidy files notice to terminate its service, it continues to receive financial support under its 406 rate. Congress has proposed and we expect that the old subsidy program, although originally intended to continue through 1986, will be discontinued at the end of FY 1982. This decision is primarily a result of the tremendous cost savings we have accomplished so far under the new program. There are currently 45 points in the continental U.S. and 201 points in Alaska still receiving subsidy under the 406 program for which we pay approximately 38 million dollars per year. We expect that service at these points will be converted to 419 subsidy rates in FY 1982.

To illustrate the dramatic difference in costs between the two programs, I would like to cite a few statistics. In FY 1981 we paid a total of 94.3 million dollars in 406 subsidy and 13.7 million dollars in 419 subsidy for a total of 108.0 million dollars for service to small communities. In FY 1983, when we expect all small community service to come under the 419 program, our total budget for small community services is $48.4 million--less than one half what was spent in FY 1981, even after inflation. One of the reasons for this vast difference is that many of the points subsidized under the old program can and are being served without subsidy by commuter carriers because of the efficiencies of more appropriately-sized aircraft for the markets.

The second reason is that when subsidy is necessary, it is invariably much less expensive under the new program. Since enactment of the ADA, we have processed approximately 142 replacement cases. Of these, 78 communities have required subsidized service at an annual rate of 20.8 million dollars, or an average of $267,000 per point per year. Under the old subsidy program the average subsidy per point under the most recent rate was approximately $718,000. I might add, that all this savings is achieved at the same time communities receive quality air service. Our experience is that most communities are pleased with their replacement service.

After January 1, 1983, we will have another tool to keep costs competitive. Carriers will then have an opportunity to replace or "bump" other carriers which are receiving subsidy. In the case of 419 subsidy, bumping will be permitted only after a carrier has served a point for at least two years. The Act provides that this will be done by filing an application in which the carrier seeking to bump would have to show that it either would provide better service with no increase in subsidy or the same service for less subsidy. The Board's decision, however, would be made only after consultation wih the affected community. These procedures will help ensure that subsidy costs remain at reasonable levels.

This is our program for supporting air service and one we think is highly successful both in terms of its responsiveness to the needs of the eligible communities and in assuring that the Government's funds are wisely spent. I'd be happy to answer any questions you may have about our program.

Senator **Symms**. Have you had enough experience with this bumping program to know whether or not it will cause the ones that have the contracts to not make any capital expenditures? I can see if I was a small carrier, my first thought would be that I'm not going to invest any more money because somebody may bump me if we invest anymore. Have you had any input on it that you start cutting corners on maintenance and so forth?

Mr. **Murphy**. The full bumping program does not come into play until next year, but we have had limited experience with it. I think one provision that saves some of that concern that you have is that you cannot bump a carrier until it's been on a route at least 2 years. So a carrier is guaranteed at least 2 years on a route.

Also, the Board does have some discretion. We recently had a case which was very close to bumping and the Board decided to stick with the incumbent carrier even though he was somewhat more expensive because the communities were happy with that carrier and he had done a very good job in developing the community's air service. So in spite of the bumping application the Board decided to stick with the incumbent in that case.

Senator **Symms**. Well, I asked the question because we found in the firefighting business in the Northwest that pure competitive bidding ends up costing more money than it does if they can sign a contract on a sustainable basis because of the maintenance problems and so forth which offset the aircraft. And it is kind of interesting how the studies and the figures and statistics indicated that in every case competitive bidding or the threat of being bumped out, so to speak, didn't necessarily bring about the lowest price and the best service. It was kind of interesting that that happened.

Now how would you suggest we might apply the principles that were applied to airline deregulation in our efforts to deregulate the Postal Service?

Mr. **Murphy**. Well, Senator, the Civil Aeronautics Board has no official position on that matter, but I would note that in the Airline Deregulation Act there's a provision which allows the Postal Service to begin in the coming years to negotiate and contract on some of their mail rates.

Now the CAB sets mail rates for the carriage of mail. We decide what the airlines will receive from the Postal Service.

In the future, the Postal Service can negotiate directly and I would think from our experience that that should be a very fruitful effort for the Postal Service. They should end up with more efficiency and lower costs.

Senator **Symms**. What do you think about that, Mr. Wunder?

Mr. **Wunder**. In respect to your question, Senator, it seems to me that the model that has been described for the rural area is a model that seemingly could be followed in the Postal Service. It is very much like the similar model that both the Senate and the House have looked at with respect to the same type of issue with respect to rural telephone service, targeted money in areas that needed it as opposed to broad-based subsidy, to be entirely efficient, and in terms of there being a rural problem for the Postal Service—high cost, low density—the same issue as in telephone service—the model that's been described, just thinking off the top of my head, could be clearly adaptable.

Senator SYMMS. Mr. Wunder, just to follow along on that, Mrs. Steiger in her testimony estimated that rural delivery costs the Postal Service about $900 million. This was an estimate because the Postal Service seems reluctant to provide the information necessary to determine where the costs are accrued.

The question I would like to ask, based on that information, is do we need to establish a better means of requiring such information so that we can make public policy decisions?

Mr. WUNDER. Unequivocably, yes.

Senator SYMMS. How?

Mr. WUNDER. I think what we need to do is to be in a position to have the information to identify what the cost of service is in a given area so that you can identify the magnitude of the subsidy and, once known, once those facts are known, then what we can do then is make more deliberative and informed public policy choices. I mean, it's all well and good for the Post Office to come in and say, well, there is going to be gigantic problems in the universal system because we have this broad averaging in postal rates, but not know clearly what the magnitude of those are.

Senator SYMMS. Well, in the telephone business, as you mentioned about rural telephones, historically—long distance rates have helped subsidize local rates. Do you think the same thing might end up applying in the Postal Service?

Mr. WUNDER. I think that's entirely possible. That's something you need to know. The numbers based on the AT&T numbers, what we had to do in the last Congress was to identify the telephone service under various scenarios, how much it would take to hold the rural areas harmless. And when I saw the figures, it was $500 million.

Senator SYMMS. It was how much?

Mr. WUNDER. $500 million.

Senator SYMMS. $500 million?

Mr. WUNDER. We could protect and keep local rates in every rural area at the same rate for an amount of $500 million. I was quite surprised at how small the number was.

Given this fact, unlike Postal Service, in many rural areas of this country telephone service is cheaper—local telephone service is cheaper than in urban areas by a magnitude of a third. The average telephone rate in rural areas was running about $6 at the time and the average rate was running about $9 in urban areas.

Senator SYMMS. How do you explain that?

Mr. WUNDER. I explain that for this reason: telephone company pricing and what public service commissions do in various States is place their tariff decisions and their ratemaking decisions based upon value of service. If you're in a rural area and you can reach through local service only 3,000 telephones, 3,000 other people; but if you live in Washington, D.C., the local service can reach several million. So the value of that service is greater because of the number.

I think that the second reason is that the total subsidy which has been identified has been very significant in rural areas. The reason for that, the reason for the generosity in the whole subsidy, is the fact that they wanted to have a system of universal service and it provided the money for upgrading service and direct distance dialing, for instance, which we didn't have before, and it provided the wherewithal for the local companies who don't have great wherewithal to upgrade the service to accommodate that.

Senator **Symms**. That's very interesting. You know, one story that I've told the phone company people that they should keep reminding people of, when the Teton Dam broke in Idaho, it was in the middle of the day, fortunately. It was about noon, and so it was at a time when people weren't necessarily asleep, which would have made it harder to get them to evacuate the flood zone. But the phone company called all those houses and they alerted almost everybody who had a phone in the house—it could have been an absolute disaster in terms of loss of life. There were 11 people killed as it was, but it could have been 1,100 if they hadn't been notified to get out of the way because there was a wall of water 30 or 40 feet high that came rolling through the area. And it was amazing how the rural phones did play an important part in saving a lot of lives.

Mr. **Wunder**. Senator Symms, the phone service in this country is vital for those reasons and also it's extremely vital for national security reasons for many of the same purposes.

Senator **Symms**. For example, if we go into a system similar to phone and airline deregulation, Mr. Murphy, would you think that an excise tax on all mail delivery would be a good way to subsidize the unprofitable routes?

Mr. **Murphy**. Senator. I don't think I'm in a position to answer that question. I do know, however, that if there's going to be Federal funds or subsidies paid for rural deliveries, I think it's important that everybody know how much they are and that it not be buried in cost subsidies.

Airline subsidies for years, 40 years, were paid in a way that really no one knew how much we were paying per community. Today we know we're paying $217,000 per community, and I think that's helpful to the Board in deciding how much air service to put into certain cities.

Senator **Symms**. Do you think it would be better to have it all up front, then? A subsidy right out of the general fund, and say, "There will be this much money and you just try to place it where it should go?"

Mr. **Wunder**. That's how air services are subsidized today. I don't know that I'm in a position to know whether the postal subsidy should be out of the general fund or not.

Senator **Symms**. One fellow suggested that what we should do is repeal the monopoly on the rural areas and just see what happens. Of course, the threat that everybody talks about is that if you had the postal monopoly repealed then the rural areas, the back countries, would not get mail delivery.

Mr. **Wunder**. That's an interesting thought.

Senator **Symms**. It might be kind of interesting to go about it backward and see what happened.

Mr. **Wunder**. I might say that in some ways the airline deregulation had a little bit of an example like that. The communter airlines have never been regulated so that we were able to watch them develop without the Federal Government telling them where they can fly and what they can charge, and they became so successful that I think their success helped lead to deregulation and certainly let everybody feel better about the fact that small communities wouldn't be totally abandoned. In fact, the small carriers picked up those small communities. There might be some good analogy there.

Senator **Symms.** In other words, generally speaking, people have as good air service, if not better, than they had before deregulation, don't they?

Mr. **Murphy.** I think that's correct. I have to say, though, that some communities are upset when they learn that they're going to be losing their jet service that they were getting twice a day, often poorly timed service twice a day, and they're going to have that replaced with higher frequency commuter service, and there is a resistance to that in some communities at first. But generally we have found that traffic holds up.

Senator **Symms.** Of course, there's been a lot of things happen since this started with higher fuel costs and higher interest rates for new equipment, and there have been a lot of things happen to the airlines that deregulation really didn't have anything to do with. But I don't see how they could have continued to fly empty airplanes without having flexibility to at least try to have 60 percent or more seat capacity. It's just not efficient to do it. And every time I get on an airplane it's always remarkable to me, if the plane is empty, people say, "Gee, isn't this nice to be on the plane when it's empty?" And I say, "Well, not really. If you fly as much as I do, you'll find out that next week it will be canceled if it's empty." And it's the only thing they can do. They can't afford to fly and lose money.

But to go back over to you, Mr. Wunder, for another question, with respect to the Postal Service's E-COM service, could you identify exactly what aspects of this service would, in your opinion, not be provided by private telecommunications companies and, if there is a profit to be made, why would not private companies provide such services; and if there is no profit, why would the Postal Service seek to provide the service?

Mr. **Wunder.** Private companies are today providing electronic mail service in competition with the Post Office because they do see that there's a profit to be made in utilizing that service. The only thing that a private company cannot do that's engaged in electronic mail is deliver the hard copy because of the postal monopoly.

Quite frankly, one of the things that was discussed with Postmaster General Bolger in discussions between the administration and the Post Office about the electronic mail service was the notion of using the Post Office's authority to exempt from the applicability of the private express statutes that portion which flowed from electronic mail delivery by others who compete with him. I've seen no action on the Post Office's part with respect to that.

In terms of the Postal Service's entry, I'll be very candid, Senator Symms. I see their entry into that as being a recognition of the fact that they face a potential loss as a result of the new electronic services and they're looking out for the future of the Post Office. Because if you can deliver mail electronically, one of the great concerns that we had was that the Post Office would go to the so-called Generation III—they're in Generation II now and that's what their current service is—which would permit the Post Office to go from home to home, and I think home-to-home electronic mail which is here today, which you will see greatly increased by the end of this century, is going to be a significant threat to delivery of hard copy mail.

If you're Shell Oil Co., and you can send out all your bills and show up at the terminal in your house, why would you use the Post Office?

Senator SYMMS That's true. Mr. Bolger touched on this, but what exactly is the statutory provision which authorizes the Postal Service to provide electronic mail?

Mr. WUNDER. They cite language in the Postal Reorganization Act which calls upon them to have an efficient service and to upgrade the service.

In terms of a specific authorization, I have found none and that was one of the issues that has been litigated.

Senator SYMMS. Well, would the statute authorize the Postal Service to deliver mail electronically as well as receive it electronically? Mr. Bolger said no. What's your opinion on that?

Mr. WUNDER. If you can take the statute and do the service that they're doing for one side, I don't know why you couldn't do it for the other aspect of it. They told us the same thing with respect to Generation III, that they were prohibited from doing Generation III so we shouldn't be concerned, and when I would ask them, "Well, where is it that you find that in the statute," they'd point you to language which I never thought had any great applicability to the subject matter.

Senator SYMMS. Well, if the Postal Service is authorized to use computers to electronically send letters from mailing lists in standard text, is the Postal Service also authorized to send paychecks from payroll data or monthly bills from a credit card?

Mr. WUNDER. It wouldn't be an illogical leap. That was another concern of ours with respect to the activities in which the Post Office was engaged, the assembling and printing. So it would not be an illogical leap to say that if you can do one, why is it you can't do the other?

Senator SYMMS. Well, thank you very much. I appreciate your testimony and your statements, and I know they will add greatly to our hearing record.

The next witness is Robert E. Smith, vice president of the United Parcel Service; and James Baer, executive director of the Association of Commercial Mail Receiving Agencies.

Let's hear from Mr. Robert Smith, vice president, United Parcel Service.

STATEMENT OF ROBERT E. SMITH, VICE PRESIDENT, UNITED PARCEL SERVICE

Mr. SMITH. Thank you, Senator. I have a prepared statement for the record and I would just like to touch on the highlights of that statement.

Senator SYMMS. Your entire statement will be printed in the record.

Mr. SMITH. My name is Robert E. Smith. I am vice president of United Parcel Service and a member of its management committee, which is the group of executives who have overall responsibility for the day-to-day conduct of the business.

Our company has become well known to the public as a national parcel delivery service.

Although the Postal Service is our principal competitor, we, like all other businesses, rely heavily on the Postal Service for the delivery and receipt of letters and for the conveyance and collection of our bills.

The mails are important to our business and we have a great interest in having a healthy and efficient Postal Service.

United Parcel Service now has operations in the 48 contiguous States, and the District of Columbia, plus service to and from Oahu, Hawaii, and Anchorage, Alaska.

We make pickups and deliveries wherever shippers and receivers may be located, whether in a city, town, or village, or at places outside any populated area, such as farms and mines. I believe that no other carrier, public or private, offers as complete and reliable service.

The availability and importance of our service to small towns and rural America has been confirmed in a number of recent studies conducted by the U.S. Department of Transportation. About 25 percent of our deliveries are made in rural areas. The fact is that UPS covers many thousands of small towns and out-of-the-way places.

I should point out that the Postal Service's competition with UPS is not limited to just its parcel post service. It is only one of several classes of mail which offer parcel delivery services. The Postal Service does handle parcels as special rate fourth class; bound printed matter; library rate; parcels weighing less than 1 pound as third class; priority mail; and express mail.

A postal monopoly was assumed to be an appropriate function of the Government when the Post Office Department was established in 1789.

However, we are today in an age of rapidly changing technologies in the fields of communication and transportation. It may well be that we have reached the time when a comprehensive study of the private express statutes, both as to their present scope and the role they should play in the future, should be undertaken. It is commendable that postal officials support such a study.

If, as a result of such a study, the Congress were to repeal the private express statutes, there is no doubt that the Postal Service would continue to have a virtual monopoly in the delivery of letter mail for years to come. This is so because of the extensive coverage of the postal system. It would be a very long time before any private firm or firms could challenge the Postal Service in providing nationwide letter mail delivery. Thus, even if the private express statutes were to be repealed, there would continue to be a need for monitoring the cost allocations and rates of the Postal Service.

At this point, I would like to make clear to you that UPS is not anticipating entry into the business of house-to-house delivery of messages and printed material if the private express statutes are repealed or modified.

If the statutes are not repealed or relaxed, the Postal Service should continue to be barred from extending its monopoly beyond the transportation of letter mail, as that term has usually been understood.

There is no definition of a "letter" and therefore there is no description of the extent of the monopoly in any postal law. As a result, the Postal Service today issues regulations and opinion letters in which it defines a letter. In effect, the Postal Service now defines the scope of its own monopoly.

In the past, there has been considerable friction between UPS's customers and the Postal Service as to whether or not certain items carried in packages were under the monopoly. Examples of some of the items are: advertising matter enclosed in packages, driver's licenses, football tickets, data processing materials, motor carrier tariffs, blank insurance forms, and numerous other items.

We believe that a letter has a commonly understood meaning. A letter is "current, private correspondence." This also happens to be how the Universal Postal Union defines a letter.

If there is a need for a forum to decide controversies over whether any particular item is a letter, we suggest that the Postal Rate Commission is a better forum for deciding the question than the Postal Service. No monopolist should have the authority to define its own monopoly and then act as inspector, prosecutor, judge and jury to enforce that monopoly.

Of great importance to United Parcel Service is the continuation of those provisions of law which proscribe the use of revenues from monopoly services, especially first class letter mail, to cross-subsidize those classes of mail which are competitive with firms such as United Parcel Service. The temptation is strong to increase rates in those areas where there is no competition in order to be able to hold down rates where competition exists.

Exhibit I demonstrates that since 1970 there has been a great disparity as between first class mail rate increases and parcel post rate increases. While the Consumer Price Index has risen 133 percent, first class rates were increased by 233 percent but parcel post rates were increased by only 95 percent, even though the act contains safeguards intended to prevent cross-subsidization of competitive services. In light of these comparative rate increases, the safeguards in the act against cross-subsidies must be applied in a more effective manner; certainly they must not be weakened.

In summary, UPS has successfully competed with the Postal Service for many years. We believe that we can continue to do so, if the postal competition remains fair. For us, that means proper costing and rate setting by the Postal Service, and an enforced proscription against cross-subsidy which uses monopoly revenues to cover costs of competitive services.

If Congress should eventually determine the need for continuing a postal monopoly, we believe that the definition of that monopoly should be spelled out to avoid encroachment by the Postal Service into areas now adequately handled by the private sector.

We appreciate this opportunity you have given us to discuss our concerns as to the postal monopoly

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF ROBERT E. SMITH

My name is Robert E. Smith, I am Vice President of United Parcel Service and a member of its Management Committee, which is the group of executives who have overall responsibility for the day-to-day conduct of the business.

My principal responsibility includes public affairs and I have participated actively in the preparation and presentation of evidence in rate cases and other proceedings before the Postal Rate Commission.

I have also testified before various committees of the Congress on postal matters and other issues of importance to UPS.

Considering our long experience as a competitor of the United States Postal Service, our views may be of some interest to this committee as it considers the possible need for deregulation of the delivery of first class mail.

I will first present a brief review of the nature of our operations and of our competition with the Postal Service. Second, I will briefly describe the concerns of United Parcel Service with the postal monopoly.

DESCRIPTION OF UPS AND IDENTIFICATION OF ITS INTEREST IN THE ADMINISTRATION OF THE POSTAL REORGANIZATION ACT

Our company has become well known to the public as a national parcel delivery service.

Although the Postal Service is our principal competitor, we, like all other businesses, rely heavily on the Postal Service for the delivery and receipt of letters and for the conveyance and collection of our bills. The mails are important to our business and we have a great interest in having a healthy and efficient Postal Service.

United Parcel Service now has operations in the 48 contiguous states, and the District of Columbia, plus service to and from Oahu, Hawaii and Anchorage, Alaska.

Our geographic coverage has grown by numerous expansions over the past 30 years and today there is no address in the 48 states out of reach of the familiar brown delivery car and the UPS driver.

By combining the capabilities of our ground and air services, shippers can send packages to any address in the 48 states in two days or less. Many points are served through our ground service in one day. I believe that no other carrier, public or private, offers as complete and reliable service.

We make pickups and deliveries wherever shippers and receivers may be located, whether in a city, town or village, or at places outside any populated area, such as farms and mines.

The availability and importance of our service to small towns and rural America have been confirmed in a number of recent studies conducted by the U.S. Department of Transportation. About 25% of our deliveries are made in rural areas. The fact is that UPS covers many thousands of small towns and out-of-the-way places every day.

In addition to our pickup service, we maintain a customer counter open to the public at all of our operating centers throughout the country where a sender may turn over a package for delivery. Millions of parcels are tendered to us each year at our receiving counters by individuals; many commercial shippers also find our receiving counters convenient.

We deliver millions of packages every year to individuals at their residences in both urban and rural areas. Indeed, I believe you will be interested to learn that over 45% of our delivery stops are at private residences.

To provide this service we have 110,000 employees who work at over 1,100 locations and our automotive fleet consists of more than 60,000 vehicles.

In 1981 we delivered 1.5 billion packages.

UPS COMPETITION WITH THE USPS

I should point out that the Postal Service's competition with UPS is not limited to just its parcel post service. It is only one of several classes of mail which offer parcel delivery services. The Postal Service does handle parcels as special rate fourth class; bound printed matter; library rate; parcels weighing less than one pound as third class; priority mail; and express mail.

The Postal Service actively competes with us in each of these various classes of mail. Altogether, in all classes combined, the Postal Service parcel volume amounts to more than 1.4 billion parcels a year, which compares closely with the volume of 1.5 billion parcels handled by UPS in 1981.

Thus, you can readily see that UPS and the Postal Service are active competitors along with many other private carriers for parcel delivery business throughout the nation.

And, we believe, the public has been the beneficiary by having a variety of services available.

As both a competitor and user of the Postal Service, UPS has maintained a strong interest in the laws that established the principles of fair postal competition with the private sector.

The Congress, too, has long recognized that parcel post, though originally created to supplement the services of private carriers, could, unless great care were exercised, compete unfairly with the private sector.

As a result, on a number of occasions during the past 70 years since the start of parcel post service, the Congress has adopted legislation consistently supporting and strengthening the essential concept that parcel post rates should cover the costs of that service.

The 1970 Postal Reorganization Act was a continuation of that mandate. It not only requires the Postal Service to achieve overall cost recovery, but also each class of mail must recover at a minimum its attributable costs. To assure continuation of this principle, we have over the years supported legislation related to effective costing in the postal rate setting process.

REEXAMINATION OF THE POSTAL MONOPOLY

A postal monopoly was assumed to be an appropriate function of the Government when the Post Office Department was established in 1789. It became concretely part of our laws in 1792, and has persisted since that time.

With the impending break-up of the Bell System the Postal Service is by far the largest utility in our country, and it enjoys a monopoly of immense proportions.

We are today in an age of rapidly changing technologies in the fields of communication and transportation. We have also, a renewed sense that the Government should be the sole provider of a service only in those areas where private enterprise simply cannot do the job. It may well be that we have reached the time when a comprehensive study of the Private Express Statutes, both as to their present scope and the role they should play in the future, should be undertaken. It is commendable that postal officials support such a study.

If, as a result of such a study, the Congress were to repeal the Private Express Statutes there is no doubt that the Postal Service would continue to have a virtual monopoly in the delivery of letter mail for years to come. This is so because of the extensive coverage of the postal system. It would be a very long time before any private firm or firms could challenge the Postal Service in providing nationwide letter mail delivery. Thus, even if the Private Express Statutes were to be repealed there would continue to be a need for monitoring the cost allocations and rates of the Postal Service.

At this point, I would like to make clear to you that UPS is not anticipating entry into the business of house-to-house delivery of messages and printed material if the Private Express Statutes are repealed or modified.

If the Private Express Statutes are not repealed or relaxed, it is clear to us that any effort on the part of the Postal Service to expand the statutory monopoly on letter mail to new areas by regulation or interpretation should be resisted. The Postal Service, under any circumstances, should continue to be barred from extending its monopoly beyond the transportation of letter mail, as that term has usually been understood.

There is no definition of a "letter" and therefore there is no description of the extent of the monopoly in any postal law. As a result, the Postal Service today issues regulations and opinion letters in which it defines a letter and enforces them through the Postal Inspection Service. In effect, the Postal Service now defines the scope of its own monopoly.

In the past, there has been considerable friction between UPS's customers and the Postal Service as to whether or not certain items carried in packages were under the monopoly. Examples of some of the items which in the past have come into contention are:

Advertising matter enclosed in packages with merchandise
Driver's licenses in bulk from state agencies to county court houses
Football tickets
Data processing programs, materials, either cards or tapes, in bulk
Receipts or bills going to a computer center
Motor carrier tariffs
Recreation facility brochures in bulk
Blank insurance forms, and
Records retrieved from storage.

We believe that a letter has a commonly understood meaning. A letter is "current, private correspondence." This also happens to be how the Universal Postal Union defines a letter.

If there is a need for a forum to decide controversies over whether any particular item is a letter, we suggest that the Postal Rate Commission is a better forum for deciding the question than the Postal Service. No monopolist should have the authority to define its own monopoly and then act as inspector, prosecutcr, judge and jury to enforce that monopoly.

MONOPOLY REVENUES SHOULD NOT BE USED TO CROSS-SUBSIDIZE COMPETITIVE SERVICES

Of great importance to United Parcel Service is the continuation of those provisions of law which proscribe the use of revenues from monopoly services, especially first class letter mail, to cross-subsidize those classes of mail which are competitive with firms such as United Parcel Service which operate in the private sector. The temptation is strong to increase rates in those areas where there is no competition in order to be able to hold down rates where competition exists.

Exhibit I demonstrates that since 1970 there has been a great disparity as between first class mail rate increases and parcel post rate increases. While the Consumer Price Index has risen 133%, first class rates were increased by 233% but parcel post rates were increased by only 95%, even though the Act contains safeguards intended to prevent cross-subsidization of competitive services. In light of these comparative rate increases, the safeguards in the Act against cross subsidies must be applied in a more effective manner; certainly they must not be weakened.

The most essential safeguards to private enterprise competitors of the Postal Service from unfair competition due to cross-subsidization by the Postal Service's monopoly services are, first, the requirement of the Postal Reorganization Act that postal rates for each class cover the costs caused by that class. The Act is clear and the Court of Appeals for the District of Columbia Circuit has reinforced this essential principle. Second, it is necessary that the Postal Rate Commission function as an effective regulatory body in implementing that requirement of the Act.

An area of disagreement in the past ten years of postal rate-making has been the amount of total cost which is classified as attributable cost and thereby identified as costs which must be recovered by the rates of each class of mail. It should be noted that some part of the remaining costs not attributed are reasonably assigned on a costing basis, and the residual costs not attributed or assigned are allocated on a subjective, discretionary basis to the various classes of mail. In the earlier rate cases, a mere 50% of total postal cost was attributed or charged to the classes of mail as the result of cost of service analysis. Although the Postal Service has actively resisted efforts to increase the level of attributable cost, the Commission in the newest recent rate case determined that attributable costs were 64% of total cost. An additional 10% of total cost was assigned to certain classes on a cost of service basis by the Commission. As a result approximately 26% of all postal costs remained to be assigned to classes of mail without regard to which class caused the costs, but according to the non-cost factors in the Act.

In his concurring opinion in the most recent postal rate case, former Postal Rate Commissioner A. Lee Fritschler clearly stated the danger inherent in a large pool of monopoly class revenues which might be used by the Postal Service to compete unfairly against private enterprise. Commissioner Fritschler there stated:

> "I believe that the Postal Rate Commission's most important responsibility in a rate proceeding is to prevent revenues from first-class mail -- the monopoly class -- from being used to cross-subsidize other classes of mail. One of the clearest statements of responsibility of this Commission and its relationship to first-class mail can be found in the Senate Report on the Postal Reorganization Act:
>
>> ...the temptation to resolve the financial problems of the Post Office by charging the lion's share of all operational costs to first class is strong; that's where the big money is. The necessity for preventing that imposition upon the only class of mail which the general public uses is one of the reasons why the Postal Rate Commission should be independent of operating management. (Senate Committee on Post Office and Civil Service, Postal Reorganization, Senate Report No. 91-912 (June 3, 1970), p. 13)."

SUMMARY

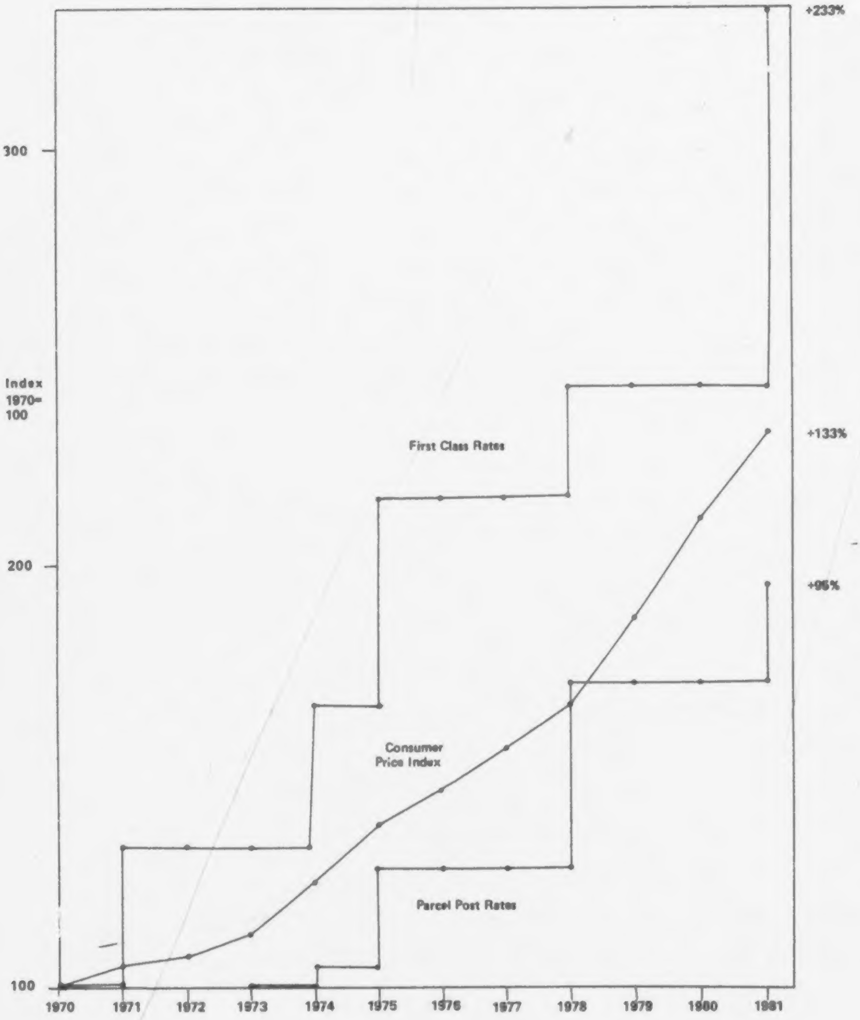
UPS has successfully competed with the Postal Service for many years. We believe that we can continue to do so, if the postal competition remains fair. For us, that means proper costing and rate setting by the Postal Service, and an enforced proscription against cross subsidy which uses monopoly revenues to cover costs of competitive services.

If Congress should eventually determine the need for continuing a postal monopoly, we believe that the definition of that monopoly should be spelled out to avoid encroachment by the the Postal Service into areas now adequately handled by the private sector.

We appreciate this opportunity you have given us to discuss our concerns as to the postal monopoly.

EXHIBIT 1

GROWTH IN POSTAL SERVICE RATES
1970 – 1981
(Index 1970 = 100)



Senator SYMMS. Mr. Baer.

STATEMENT OF JAMES W. BAER, EXECUTIVE DIRECTOR, ASSOCIATION OF COMMERCIAL MAIL RECEIVING AGENCIES

Mr. BAER. I, too, have a rather voluminous prepared statement to submit, but I will mercifully summarize that for you.

Senator SYMMS. Your entire prepared statement will be a part of our record and we will examine the entire document to see if we wish to have it in the subcommittee file or printed in the record. There may be parts of that that we would like to print and parts we wouldn't.

Mr. BAER. Thank you. I represent the Association of Commercial Mail Receiving Agencies which is a group of presently somewhat in excess of 100 independent mail receiving agents currently in about 30 States.

The commercial mail receiving business currently has about 1,000 to 1,500 operators throughout the United States.

A CMRA is authorized by the U.S. Postal Service in the domestic mail manual and the Postal Service more recently—that is, July 1981—published a pamphlet explaining the purposes of the CMRA and some of the regulations revolving around CMRA.

A CMRA acts as an agent for his or her customers by picking up their mail at post offices, taking it to a private mail center, sorting it into individual boxes. Customers may then call on the telephone or visit that mail center for the purpose of determining whether or not they have mail. Customers who are not in the local area may have their mail forwarded to them by the CMRA. The private center may also act as a receiving point for parcels shipped through parcel post, United Parcel Service or other commercial carriers.

We believe that an increasingly large portion of the American public has concluded that the services currently available from the Postal Service are inadequate, overpriced, and in many instances inconvenient. Our industry is better able to serve individual customers in their local communities by acting as the local and direct contact able to respond to local and individual requirements not possible through a massive monolithic organization such as the U.S. Postal Service, and there are many, many benefits to be obtained by the customer, by the public, from a CMRA as opposed to the U.S. Postal Service.

CMRA's are in fact helping to reduce local postal costs by grouping many customers, in some cases 1,000 or more, into one delivery point, and in that instance it would be the U.S. Post Office itself, the building.

Because most CMRA's purchase caller service and therefore pick up the mail for their clients, the Post Office letter carrier is relieved of this responsibility. Similarly, by providing local lockbox service, CMRA's can reduce the necessity for the Postal Service to spend millions of what in effect are taxpayers' dollars for additional boxes whether they be added to existing buildings or placed in new construction satellites.

CMRA's have many concerns concerning the U.S. Postal Service, among which are the definition of lockboxes themselves. The domestic mail manual describes lockboxes or their lockbox service as a premium service and, therefore, by definition, lockboxes are ancillary to the main business of delivering mail from one point to another.

Notwithstanding this view, the Postal Service seems bent on adding millions of lockboxes and has in fact done that in the past 12 months. It would appear to us that the substantial amounts of money being spent on lockboxes might better be spent on improving basic delivery services from point to point or in achieving economies to reduce the overall cost of the Postal Service.

We also see overt attempts and attendant expenses by the Postal Service to advertise their box services and make empty boxes available to the general public and this would seem to fly in the face of its contention that it is merely responding to already existing demand.

The Postal Service seems inclined to improve services to those areas it determines as having significant customer demand, but it appears entirely too coincidental to us that a significant number of these improvement areas have occurred within months of the opening of a CMRA in that vicinity, and we have many examples of that.

Our industry continues not to understand how a local post office can install hundreds of lockboxes, charge virtually for this premium service, as they define it, and at the same time continue to establish record expenses.

We note also that concurrent with this unprecedented expansion, the Postal Service continues to maintain that it is profitable to expand services at significant cost, although it appears to generate very little revenue from these sources; and here we're talking about cross-subsidization again I believe.

In conclusion, our position is that most of local mail delivery can best be accomplished by private industry. To do so will provide substantially better and expanded services geared specifically to the needs of that community. In so doing, the United States Postal Service will then be able to concentrate on the mass movement of mail, provide better and more efficient service, and reduce overall costs, whether those be reducing what was an almost $600 million loss in 1981 and perhaps has improved profits in the most current year.

The Postal Service by its actions and attitudes appears to be entirely negative on the proliferation of CMRA's which it apparently views as competition. We see what amounts to out-and-out harassment and unfair competition in advertising, rate structures, and its funding of concerted efforts to expand lockbox service at the expense of private enterprise. This is particularly significant since that very same private enterprise, namely the CMRA's have already demonstrated that the public desires its services even in the face of the overt actions of the Postal Service.

The private mail receiving business is prepared to handle virtually all local mail delivery with particular emphasis on stationary units providing full services including lockboxes. If, on the other hand, the U.S. Postal Service persists in its intention to spend millions on expanding its own such services at the expense of the taxpayer, then we ask only that we be allowed to compete on an even basis.

Thank you very much.

[The prepared statement of Mr. Baer follows:]

PREPARED STATEMENT OF JAMES W. BAER

INTRODUCTION

I am James W. Baer, Executive Director of the Association of Commercial Mail Receiving Agencies, headquartered in Allentown, Pennsylvania. I am appearing here today on behalf of the Association and its membership of over 100 independent mail receiving agents in over 30 states throughout the U.S. On behalf of this membership and the hundreds of other private mail handling concerns in this country, I express our appreciation for the opportunity to testify before your subcommittee.

The Association of Commercial Mail Receiving Agencies hereinafter referred to as ACMRA, was formed for the purpose of uniting small mail receiving businesses located in cities and towns throughout the United States, and, for the most part, owned and operated by small, local, individual entrepreneurs.

WHAT IS A CMRA?

A Commercial Mail Receiving Agency is authorized by the United States Postal Service and is referred to in Section 153.21. of The Domestic Mail Manual. The Postal Service more recently (July 1981) published a pamphlet explaining the purpose of CMRA's and offering a description of the regulations governing them.

The private mail center business has, in fact, existed in the United States, for over a hundred years. One member of our Association has been in continuous operation since 1909 and began by holding mail for prospectors headed for the gold fields and merchant seamen requiring a seaport address while they were afloat.

More recently however, the business as we know it today, began to take hold in Southern California approximately three or four years ago. In the true American spirit of opportunism, entrepreneurs decided to offer lockbox services when it become apparent that no such boxes were immediately available in area Post Offices.

Many areas of the country still experience dramatic shortages of lockboxes with waits of several months not uncommon. The Postal Service has openly admitted the shortage of boxes. In certain of these areas of shortages, private enterprise has helped to satisfy demand.

It is our expectation, however, that the private mail receiving business will thrive, not because it offers "the only available lockbox in town," but rather that it provides needed services preferred by the public and which the Postal Service is not in a position to provide. We are talking about convenience, and the essence of private business—not the strangling effects of monopoly and giant enterprise unable to react to the particular needs of a small community of people.

CMRA's are neighborhood business service centers providing for the rental of lockboxes similar to those in the Post Office, mail forwarding, shipping and receiving of parcels, telephone message service, carrier services, and a host of other necessary business services including, but not limited to printing, copying, secretarial services, passport and I.D. photos, Western Union, etc. The length and breadth of these services are limited only by the imagination of the individual entrepeneur and the needs expressed by the community in which he or she operates.

For the purpose of these remarks before the subcommittee I shall not dwell on the other services provided by CMRA's, but concentrate solely on mail and package handling, which generally constitute the major activity of such busineses. A CMRA acts as agent for his or her customers by picking up their mail at the Post Office, taking it to the private mail center and sorting it into individual customer boxes. Customers may then call on the telephone or visit their neighborhood center for the purpose of determining whether they have mail. Customers who are not in the local area may have their mail forwarded to them by the CMRA. The private center also may act as a receiving point for parcels shipped through Parcel Post, United Parcel Service, or any other commercial carrier.

CMRA's generally do not physically deliver mail at this time, although many are recognizing the value to their customers of providing localized courier service. In respect to packages, CMRA's generally serve as neighborhood shipping depots and accept packages from customers for shipment through Parcel Post, UPS or other common carriers. Some CMRA's are now installing equipment to provide for Electronic Facsimile Transfer, Telex or other means by which information can efficiently be transmitted from one point to another.

Private mail centers are generally owned by individual entrepreneurs operating in their own local area, serving, for the most part, a localized clientele of businesses, individuals, and organizations. As we know it today, the business is ideal for a person desiring his or her own business but with limited capital. Start up costs generally involve an expenditure of approximately $10,000–$15,000. In many instances CMRA's are owned and operated by females and/or "Mom and Pop" combinations. Space requirements are generally limited to 300-1000 square feet, overhead is low, no inventory or machinery of consequence is required, one or two persons can easily operate most centers, and the emphasis is placed on repeat customers provided with basic services at modest cost.

WHAT ARE THE BENEFITS OF A PRIVATE MAIL CENTER

The concept of a CMRA benefits the customer, the economy and the U.S. Postal Service.

We believe an increasingly larger segment of the American public has concluded that the services currently available from the Postal Service are inadequate, overpriced and inconvenient. Our industry is better able to serve individual customers in their local communities by acting as the local and direct contact, able to respond to local and individual requirements not possible through a massive, monolithic organization such as the United States Postal Service. Benefits to the individual consumer from a CMRA are varied and capsulized in several advertising pieces produced by CMRA members.

It should be noted that our industry is one which offers conveniences demanded by the general public and not available from existing organizations. In many ways we see our services in the same light as the emergence of the fast food industry vs. traditional restaurant management, or the neighborhood convenience store providing services not available at the giant supermarket. Unfortunately for CMRA's (and the general public) the "competition" is funded by the taxpayers and federal government.

Experience in our business indicates that many citizens are unable to find the services they require at the Post Office, are inconvinced by existing postal services, or are otherwise "turned off" by the Post Office. Consequently, the private mail center operations have grown dramatically in the past three years. Customers seem willing and enthusiastic about the conveniences we can offer, such as 24 hour access to mail, 100% availability of lockboxes, and the opportunity to call in to determine if they have mail, thus saving time and expense, such as that for gasoline. In many instances, although the initial costs to rent a private box appear to be higher than those at the Post Office, some customers actually save money by reducing their trips by way of telephone calls to check on mail.

We further believe that the proliferation of the private mail industry should be welcomed by postal authorities, when, in fact, they appear to be bent upon doing whatever is necessary to drive the private entrepreneur into the ground. We will expand somewhat on this point later.

CMRA's are, in fact, helping to reduce local postal costs by grouping many customers (several dozen to 1000 or more) into one delivery point—the Post Office building itself. Because most CMRA's purchase Caller Service and therefore pick up the mail for their clients, the Post Office lettercarrier is relieved of this responsibility. Similarly, by providing local lockbox service, CMRA's can reduce the necessity for the Postal Service to spend millions of taxpayer dollars for additional boxes, whether they be added to existing buildings or placed in new satellite facilities.

CMRA's are responsible business persons who must operate their businesses in a desirable manner in order to survive. The tendency therefore is to provide good service, diversified services and do those things which will develop and maintain strong customer ties. In certain communities, e.g. Los Angeles, the industry has grown rapidly and the general public has benefited from the healthy competitive atmosphere thereby created.

WHAT ARE THE CONCERNS OF CMRA'S IN REGARD TO USPS?

From the continuing evidence we have it is clear that the United States Postal Service has decided that the private mail center operator is a "competitor" and should be limited in operations, and preferably eliminated. We submit the following examples of this activity:

1. The Postal Service publishes the prices it will charge in the Domestic Mail Manual, Section 951.261 and yet appears to charge different rates in different areas which, in our opinion, is designed to attract customers at "bargain" prices.

2. The Postal Service defines lockboxes in the Domestic Mail Manual as a "premium" service and therefore, ancillary to the main business of delivering mail from one point to another. Notwithstanding this view, the Postal Service seems bent on adding millions of lockboxes. It would appear to us that the substantial amounts of money being spent on lockboxes might better be spent on improving basic delivery services or in achieving economies to reduce the overall cost of postal services to the taxpayer.

3. We see overt attempts (and attendant expense) by the Postal Service to advertise their box service and make empty boxes available. This would seem to fly in the face of its contention that it is merely responding to already existing demand.

4. The Postal Service seems inclined to "improve" services to those areas it determines as having significant customer demand. It appears entirely too coincidental to us that a significant number of these "improvements" have occurred within months after the opening of a CMRA in the vicinity.

5. Individual local postal officials appear to be reacting to CMRA's with an increasing degree of belligerence, and the incidence of "calling them close" seems to be increasing. Our membership has reported such things as Postmasters reluctant to assist a CMRA to establish his business, sudden switches in local practice as regards Caller Service, and suddenly imposing certain DMM rules that are overlooked for non-CMRA customers.

6. Our industry continues not to understand how a local Post Office can install hundreds of lockboxes, charge virtually nothing for this "premium" service and, at the same time, continue to establish record expenses. We note also, that concurrent with this unprecedented expansion, the Postal Service continues to maintain that it is profitable to expand services at significant costs and generate very little revenue therefrom.

7. We believe the Postal Service is dedicated to protecting what it perceives as a sacred "charge" to serve the mail requirements of the citizens of the United States. In so doing it appears to produce thinly veiled threats to those who would challenge its monopoly. An example of this occurs in its Publication 86 in which it answers the question "Does the Postal Service provide any assurance that it will not compete with a commercial mail receiving agency by setting up additional post office lockboxes nearby?" The answer is quite descriptive and in accord with the evidence we witness in our various locations. It would almost appear that if a particular city or town wanted more lockboxes in its local postal facility, it should establish a CMRA, and, lo and behold, the Postal Service will suddenly spring into action and "improve" service.

CONCLUSION

Our position is that local mail delivery can best be accomplished by private industry. To do so will provide substantially better and expanded services, geared specifically to the needs of that community.

In so doing, the United States Postal Service will then be able to concentrate on the mass movement of mail, provide better and more efficient service and reduce the tax burden on the individual consumer. In this respect, surely the $587,000,000 loss accomplished by the Postal Service in 1981 could have been eliminated or dramatically reduced.

The Postal Service, by its actions and attitudes, appears to be entirely negative on the proliferation of CMRA's. We see what amounts to out and out harassment and unfair competition in its advertising, rate structures, and its funding of a concerted effort to expand lockbox service at the expense of private enterprise. This is particularly significant since that very same private enterprise has already demonstrated that the public desires its services—even in the face of the overt actions of the Postal Service.

A representative of segments of our industry has previously testified before the House Subcommittee on Postal Personnel and Modernization and we wish to add that testimony[1] submitted January 29, 1982, to this record.

The private mail receiving business is prepared to handle virtually all local mail delivery, with particular emphasis on stationery units providing full services including lockboxes. If, on the other hand, the United States Postal Service persists in its intention to spend millions on expanding its own such services at the expense of the taxpayer, then we ask only that we be allowed to compete on an even basis.

We appreciate this opportunity to express our views and thank you for your attention and consideration.

Senator SYMMS. Thank you very much for a very excellent statement.

Mr. Smith, I'll ask you a couple questions here first. Why did UPS go into the rural business?

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[1] The testimony may be found in the subcommittee file.

Mr. Smith. To offer a more complete service to the public.

Senator Symms. Has it increased profitability, to have the rural part of it?

Mr. Smith. I think overall it aids our profitability. About 25 percent of our deliveries are made today in rural areas so we consider them a very good part of our business.

Senator Symms. Do you have the kind of service now that allows a person here in Washington, D.C., or the surrounding area to send a package to somebody anywhere in the United States? Can you deliver it for them?

Mr. Smith. Could an individual, say, in midtown Washington send a package by our service? Yes, they could. We have five facilities in the nearby area where they could bring their package to us or if they like they could call us on the telephone and we could have the driver pick up the package the next day.

Senator Symms. Then you could take it then to some rural area in Idaho or Arkansas or wherever?

Mr. Smith. Yes. There isn't a point in the entire country where we do not make deliveries and in some cases this service is even more extensive than the Postal Service because in many rural areas people still must come to the post office to get their package and we'll deliver it right to their door.

Senator Symms. So you think it's profitable to do it in the rural areas?

Mr. Smith. In the delivery of packages, it has been profitable, yes.

Senator Symms. Well, Mrs. Pat Brennan who had a private document delivery service in Rochester, N.Y., stated Friday that she wanted competition. She could and would compete and would have expanded her service not only to other services but to larger areas including rural areas. She was prevented from doing so by the Postal Service.

Now how does that differ with what your people do, Mr. Baer?

Mr. Baer. At the present time, our people do not physically deliver mail to a customer. We pick up that mail at the U.S. post office and deposit it in a lockbox which looks exactly like the lockboxes which are in the post office building but they are in a private facility and our customers come and pick up their mail from that point.

Senator Symms. Is it just a matter of convenience for them; it's closer to the site than the post office is or what?

Mr. Baer. Well, you're now really asking why people do that, and it is a matter of convenience. That's certainly one of the factors. Almost every CMRA provides call-in service which the post office is unable to do; that is, if you want to know whether you have mail you don't have to go to the post office: you can call your private center. Private centers will forward mail from a lockbox which the post office will not do.

Senator Symms. To go back to you for a second, Mr. Smith, we've talked about costs here this morning, but what is the differential in the cost between rural and urban service for UPS?

Mr. Smith. I couldn't really give you an answer to that. Our costs are based on average costs. I might also say that some of our higher local costs sometimes are experienced in large cities, not necessarily in rural areas.

For the State of Idaho, if you want my opinion, I will tell you that we are in the black in the entire State of Idaho, rural and urban.

Senator SYMMS. Is the reason the urban costs are higher just the time between stops and the excess use or more fuel use?

Mr. SMITH. Yes, we are a labor-intensive business. About 65 percent of our total costs are labor. So obviously the time spent in traffic, delays finding a parking place, using elevators to get into buildings, can be a great deal more expensive than just walking into a facility.

Senator SYMMS. Speaking of labor costs, what's the comparison as far as wages are concerned between what the U.S. Postal Service pays and what the United Parcel Service pays?

Mr. SMITH. I can tell you that a United Parcel Service driver today, in wages and benefits, would total about $17 an hour. I don't believe the Postal Service is that high. I don't have the current figure on it, though. Straight wages would be about $12.

Senator SYMMS. What's $12?

Mr. SMITH. Straight wages.

Senator SYMMS. Who's doing most of the package delivery in the country now, the U.S. Postal Service or the United Parcel Service?

Mr. SMITH. Well, we have a great many packages. Our total volume today is 1.5 billion packages a year. The Postal Service is also handling about 1.4 billion packages a year. Now not all of those packages are in parcel post. As I mentioned earlier in my statement, the Post Office delivers packages in all classes of mail except second class, and we compete with them for all those packages.

Senator SYMMS. Well, what did UPS see in the delivery of packages that caused them to go into the market in the first place?

Mr. SMITH. Well, I'm sure that some of the people that helped found our business and helped it to grow into a national service today often wondered about that themselves. We started 75 years ago as a small messenger service in Seattle and our service gradually grew across the country as we saw a need to provide it and customers kept asking us to provide more service, so we linked up whole States, then groups of States. It was only 3 years ago that we finally emerged into a national service.

Senator SYMMS. When did you form the company?

Mr. SMITH. It was 1907 in Seattle, Wash.

Senator SYMMS. Well, Mr. Baer, in your exhibits here I couldn't help but notice one is a letter here from a guy, a handwritten letter—where was that—could you explain that just a little bit to me?

Mr. BAER. Well, I think this is an example of what we perceive as an unusual bit of coincidence. Here is a handwritten letter from an operator of a mail center who has opened a private service and in his particular case I believe he says 3 months—within 3 months, the Postal Service opened what they call a satellite facility, an unmanned facility, a matter of a few blocks away, whereas for 100 years nothing like that ever existed. And the other exhibits that are connected with that, the following one illustrates a similar situation which occurred in the Cincinnati area and, of course, we have literally dozens of others.

Senator SYMMS. Well, thank you very much for your interest in our hearings and for the help in having your valuable testimony as part of our hearing record and we appreciate you both sharing your time with us this morning. Thank you.

The next witness is Mr. Stan Sender.

STATEMENT OF STANTON SENDER ON BEHALF OF THE AMERICAN RETAIL FEDERATION

Mr. SENDER. Thank you, Senator. My name is Stanton Sender. I'm assistant general counsel for Sears, Roebuck & Co., specializing in transportation, postal, and communications matters. I am here today testifying for the American Retail Federation.

The American Retail Federation includes 33 national retail associations and 50 State retail associations, as well as its corporate members. Through its members, ARF represents more than 1 million retail stores employing over 13 million persons, accounting for a quarter of the gross national product.

In view of the lateness of the hour, I would like to ask that my nine-page prepared statement be put in the record and I will summarize it.

Senator SYMMS. The entire statement will be printed in the record.

Mr. SENDER. Thank you, Senator.

The American Retail Federation's Transportation and Postal Committee established a special subcommittee of retail, postal, transportation, and communications experts to look into the postal issues of the 1980's. At this point in time, this subcommittee's recommendations are not complete, but we felt it would be of some value to indicate to this subcommittee some of the principal ideas and problems with which retailing is concerned.

Mail affects retailing in many ways. It is a means of transportation of our merchandise, catalogs, and advertising circulars. It is an important means by which retail advertising in newspapers, magazines, and direct mail reaches our customers. It is a means by which credit and other financial transactions are carried out with our customers and our vendors. Finally, it is a vital communications link in the management of the complex system of buying, delivering, and selling goods and services that make up modern-day retailing.

Since the establishment of the U.S. Postal Service in 1970, the transportation and communications industries—of which the Postal Service is a part—have begun an enormous change in Government regulation technology.

We have had mention today of the Airline Deregulation Act in 1978 and in 1980 the Congress passed the Motor Carrier Act, and the Staggers Rail Act, and currently before Congress are measures to reform regulation of the communications industry, the maritime industry, and the bus industry.

Congress has also passed legislation to end Federal Government ownership of Conrail, and to sell the Alaska Railroad.

In communications, we have witnessed the beginning of a technological explosion of competitive alternatives in recent years. In the court suit brought by the United States against AT&T there has been an agreement to divest the local, regulated companies from the long-distance lines, and from new Bell competitive ventures in communications.

The advent of electronic message service has raised the prospect of considerable competition in new phases of what used to be "letter" communication. The FCC has determined that the Postal Service has the right to participate on a nonexclusive basis in electronic message transfers. Technological innovation in the area is already creating totally new concepts of how and when to transfer data.

These changes in Government regulation, Government ownership, and new technology mark the beginning of a transition period where effective competition in the marketplace will be far more important.

As retailers, ourselves subject to the competitive marketplace, we have urged enactment of regulatory reform in the various transportation and communications areas, but with the practical caution that the promise of competition should not be confused with its reality, and that appropriate transition periods are necessary.

This lessening of Government regulation both administratively and legislatively has affected all the transportation and communication competitors of the U.S. Postal Service and I might add, even the Postal Service in buying airline services as we heard today is going to be affected, but every rate change of the Postal Service is still subject to a 10-month long regulatory rate proceeding.

We have suggested and are considering a list of suggestions, eight in number, as specific ideas for discussion purposes in this new technological and deregulatory era.

First of all, the ARF, American Retail Federation, believes there remains a need for a national mail delivery service. The U.S. Postal Service should be continued as an independent Government corporation administered according to sound businesslike principles. This means that postal management under the Board of Governors must have the power to respond to marketplace realities and competition by exercising effective control over administrative and operational matters, appointments, personnel, physical plant and facilities, and be directly responsible for funds received and expended.

Second, even with the deregulation of certain industries there remains the problem of regulation of rates for transportation and communications services for which there is a lack of effective competition. Rates for postal classes of mail are established through proceedings before the Postal Rate Commission, a commission which is unique in that its proceedings are limited to postal rate and classification issues. One intriguing idea, which retailers are still considering, is whether there should be an independent Federal Rate Commission or Board with multiple rate authority, including postal rates and classification. This would put all competitors on an equal footing and would place greater reliance on the marketplace when there is effective competition.

Third, the authority of any Rate Commission should be limited to those rates for which there is statutory monopoly and/or the lack of effective competition, and its decisions should be final, subject only to judicial review. The Rate Commission's decisions should be based upon economic, rather than political criteria, and rate proposals of regulated "carriers" should be fully justified, accompanied by consideration of pricing, classification, modern marketing techniques, and cost accounting systems which are formulated so as not to be self-defeating from a revenue return standpoint. There should not be any publicly financed counsel in Rate Commission proceedings; and instead, we recommend that adequate resources be provided to the Commission staff to analyze the testimony presented. The present postal "public counsel" system is unnecessary and has added unduly to the length and cost of the postal proceedings.

Fourth, on rates for which there is effective competition the marketplace should be relied upon to provide price quality options. "Carriers" should be granted the maximum degree of pricing freedom as to services for which there is actual market competition.

Fifth, even on services for which there is a statutory monopoly and/or a lack of effective competition, regulatory procedures should be reformed to provide timely decisionmaking; and should not extend to administrative or operational matters, or experimental services for a reasonable period of time.

Sixth, if Congress creates a Federal Rate Commission or restructures the Postal Rate Commission, that Commission should be given authority under prescribed statutory standards to exempt from its rate regulation additional services as effective competition is demonstrated.

Seventh, technology has provided new competitive alternatives in transportation and communications ending both statutory and so-called "natural'" monopolies. In future years, the Postal Service monopoly over "letter" mail will also disappear in fact, even if the private express statutes remain unchanged. In order to provide nationwide service of "letter" mail during that transition period, retailing continues to support the retention of the statutory monopoly on "letter" mail as it presently exists. We recommend that the present Postal Service administrative "suspensions" and "interpretations" be legislatively enacted by Congress to assure continued exceptions to the monopoly for: First, services which the Postal Service cannot efficiently or economically supply; second, the carriage of mail needing expeditious service; third, the private carriage of mail; and fourth. material which from a businessman's viewpoint does not constitute "letters." Further any new services provided by the Postal Service. such as electronic mail, should be offered without being subject to the statutory monopoly.

Eighth, further, we believe that Congress should remove outdated statutory restrictions on parcel size and weights, and allow removal of, or provide public funds for, postal services of a public nature which Congress mandates.

In speaking of the future and the changes that we have considered we do not want to leave the impression that there have not been positive changes since the enactment of the Postal Reorganization Act.

In conclusion, the American Retail Federation presents these concepts and ideas for consideration in the months ahead. We would be interested in discussing these ideas with Congress, the administration, and other interested groups in searching for substantive legislation for improved mail delivery in the 1980's. We will submit a detailed set of recommendations to the appropriate House and Senate committees with authority over postal legislation.

That concludes my statement.

[The prepared statement of Mr. Sender follows:]

PREPARED STATEMENT OF STANTON SENDER

We are pleased to have this opportunty to present to this subcommittee of the Joint Economic Committee the recent considerations and thoughts of the American Retail Federation on the postal issues of the 1980's.

The American Retail Federation includes 33 national retail associations and 50 state retail associations, as well as its corporate members. Through its members, ARF represents more than one million retail stores employing over 13 million persons, accounting for a quarter of the Gross National Product.

In September of 1980, the American Retail Federation's Transportation and Postal Committee established a special subcommittee of retail, postal, transportation, and communications experts to look into the postal issues of the 1980's. During the past 10 months, this subcommittee has held a number of meetings to identify problems, develop innovative ideas, and prepare recommendations for the full American

Retail Federation to consider. At this point in time, those recommendations are not complete, but we felt it would be of some value to indicate to this committee some of the principal ideas and problems with which retailing is concerned.

ARF and its members have a critical interest in mail delivery since it affects every retailer in every city and locality across the Nation. Mail delivery provides a vital transportation and communications link within and between businesses, and between retailers and their customers.

Retailing actively participated in supporting the establishment of the United States Postal Service over a decade ago, and continues to support the operation of the U.S. Postal Service as an independent government corporation.

Mail affects retailing in many ways. It is a means of transportation of our merchandise, catalogs and advertising circulars. It is an important means by which retail advertising in newspapers, magazines and direct mail reaches customers. It is a means by which credit and other financial transactions are carried out with our customers and our vendors. Finally, it is a vital communications link in the management of the complex system of buying, delivering and selling goods and services that makes up modern day retailing.

Since the establishment of the United States Postal Service in 1970, the transportation and communications industries--of which the Postal Service is a part--have begun an enormous change in government regulation and technology.

In the 70's Congress passed the "4-R" Act of 1976, beginning the process of reform of government regulation of the railroads. This was followed in 1977 with the de-regulation of air cargo and in 1978 with the Airline De-Regulation Act. In 1980, Congress passed the Motor Carrier Act of 1980 and the Staggers Rail Act. Currently before Congress are measures to reform regulation of the Communications industry, the maritime industry and the bus industry.

Congress has also passed legislation to end federal government ownership of Conrail, and to sell the Alaska Railroad.

In communications, we have witnessed the beginning of a technological explosion of competitive alternatives in recent years. In the Court suit brought by the United States against A.T.&T. there has been an agreement to divest the local, regulated companies from the long distance lines, and from new Bell competitive ventures in communications.

The advent of electronic message service has raised the prospect of considerable competition in new phases of what used to be "letter" communications. The F.C.C. has determined that the Postal Service has the right to participate on a non-exclusive basis in electronic message transfers. Technological innovation in the area is already creating totally new concepts of how and when to transfer data.

These changes in government regulation, government ownership, and new technology mark the beginning of a transition period where effective competition in the marketplace will be far more important.

As retailers, ourselves subject to the competitive marketplace, we have urged enactment of regulatory reform, but with the practical caution that the promise of competition should not be confused with its reality, and that appropriate transition periods are necessary.

This lessening of government regulation both administratively and legislatively has affected all the transportation and communication competitors of the United States Postal Service; Every rate and classification change of the Postal Service is subject to a nine month long regulatory proceedings, whether it be billion dollar change in first class rates for letter mail, or a change in the time of day for express mail pick up or delivery. That type of regulatory burden unduly restricts the Postal Service Management from effectively offering its services to the public and adds considerable cost to all classes of mail.

More than a decade has passed since the Postal Act of 1970. Another decade will see substantial changes in technological change which will affect the Postal

Service. The Postal Service must be allowed to adapt to changes and innovations in order to maintain its value in the new technological and de-regulatory era.

Some of the specific ideas which the ARF Postal Subcommittee has considered are the following:

1. There remains a need for a national mail delivery service. The United States Postal Service should be continued as an independent government corporation administered according to sound businesslike principles. This means that postal management under a Board of Governors must have the power to respond to marketplace realities and competition by exercising effective control over administrative and operational matters, appointments, personnel, physical plant and facilities, and be directly responsible for funds received and expended.
2. Even with the deregulation of certain industries there remains the problem of regulation of rates for transportation and communications services for which there is a lack of effective competition. Rates for postal classes of mail are established through proceedings before the Postal Rate Commission, a commission which is unique in that its proceedings are limited to postal rate and classification issues. One intriguing idea, which retailers are still con-

sidering, is whether there should be on independent Federal Rate Commission or Board with multiple rate authority, including postal rates and classifaction. This would put all competitors on an equal footing and would place greater reliance on the marketplace when there is effective competition.

3. The authority of any Rate Commission should be limited to those rates for which there is a statutory monopoly and/or the lack of effective competition, and its decisions should be final, subject only to judicial review. The Rate Commission's decisions should be based upon economic, rather than political criteria, and rate proposals of regulated "carriers" should be fully justified, accompanied by consideration of pricing, classification, modern marketing techniques and cost-accounting systems which are formulated so as not to be self-defeating from a revenue return standpoint. There should not be any publicly financed counsel in Rate Commission proceedings; and instead, we recommend that adequate resources be provided to the Commission staff to analyze the testimony presented. The present postal "public counsel" system is unnecessary and has added unduly to the length and cost of the postal proceedings.
4. On rates for which there is effective competition the marketplace should be relied upon to provide price/quality options. "Carriers" should be granted the maximum degree of pricing freedom as to services for which there is actual market competition.

5. Even on services for which there is a statutory monopoly and/or a lack of effective competition, regulatory procedures should be reformed to provide timely decision making; and should not extend to administrative or operational matters, or experimental services for a reasonable period of time.
6. If Congress creates a Federal Rate Commission or restructures the Postal Rate Commission, that Commission should be given authority under prescribed statutory standards to exempt from its rate regulation additional services as effective competition is demonstrated.
7. Technology has provided new competitive alternatives in transportation and communications ending both statutory and so-called "natural" monopolies. In future years, the Postal Service monopoly over "letter" mail will also disappear in fact, even if the Private Express Statutues remain unchanged. In order to provide nationwide service of "letter" mail during that transition period, retailing continues to support the retention of the statutory monopoly on "letter" mail as it presently exists. We recommend that the present Postal Service administrative "suspensions" and "interpretations" be legislatively enacted by Congress to assure continued exceptions to the monopoly for (1) services which the Postal Service cannot

efficiently or economically supply, (2) the carriage of mail needing expeditious service, (3) the private carriage of mail, and (4) material which from a businessman's viewpoint does not constitute "letters". Further any new services provided by the Postal Service, such as electronic mail, should be offered without being subject to the statutory monopoly.

8. Further, we believe that Congress should remove outdated statutory restrictions on parcel size and weights, and allow removal of, or provide public funds for, postal services of a public nature which Congress mandates.

In speaking of the future and the changes that we have considered we do not want to leave the impression that there have not been positive changes since the enactment of the Postal Reorganization Act.

During the last decade we have supported Postal Service management's efforts to move in the direction of providing rate incentives for mailers who take steps which save costs for the Postal Service, such as carrier route and five digit sortation; and recognizing the cost differences inherent in well prepared bulk mailings. We have also supported Postal Service management efforts to develop and implement administrative procedures which simplify and expedite the acceptance and delivery of mail, including better service standards, optional procedures for acceptance of permit imprint and parcel post mail, development of forwarding services, etc. We will continue to support such progressive postal management efforts in the future.

CONCLUSION

The American Retail Federation presents these concepts and ideas for consideration in the months ahead. We would be interested in discussing these ideas with Congress, the Administration, and other interested groups in searching for substantive legislation for improved mail delivery in the 80's. We will submit a detailed set of recommendations to the appropriate House and Senate Committees with authority over postal legislation.

Senator Symms. Thank you very much, Mr. Sender. That is an excellent statement. I think your eight suggestions actually are very good and very well thought out and deserve a great deal of attention on the part of the Congress.

What deficiencies does your organization see in the present mail delivery for retailers? I mean, what's your biggest deficiency?

Mr. Sender. Let me answer it in two parts. First of all, from the operational standpoint, in a portion of the prepared statement I did not read, we believe the Postal Service should take continued steps to provide rate incentives for mailers who take steps that save costs for the Postal Service—the presort discount, the route discount, the other forms of encouraging mailers to do so, and other administrative procedures which are spelled out we think should be encouraged.

From a regulatory standpoint, we think the present system, which was a compromise in the 1970 act of a Postal Rate Commission which did not have final authority, and a Board of Governors is now the—it's time to take a new look at it and ask whether that regulatory system with its 9- or 10-month-long proceedings, its costly system, should not be changed.

Senator Symms. Is there any place—we'll let you take off your national hat and just go back to Sears.

Mr. Sender. OK.

Senator Symms. Is there any place in the country where Sears does your own bill delivery? It's not illegal for you to do that, is it?

Mr. Sender. It is not illegal if we use our own employees. The answer is, we do not.

Senator Symms. I assume the reason for it is, it is not efficient and it wouldn't save money?

Mr. Sender. That is correct. I don't know that we have ever considered doing it, but we do not essentially deliver much of our own packages, merchandise, and others either, but we would certainly not consider doing it if it were not profitable to do it. We tend to rely on carriers to perform such services.

Senator Symms. Well, thank you very much for a very excellent statement, and I think that you and your organization are to be commended for those suggestions which we are happy to have as part of our record.

The subcommittee will now stand in recess until 1:30.

[Whereupon, at 12:05 p.m., the subcommittee recessed, to reconvene at 1:30 p.m. the same day.]

[The following questions and answers were subsequently supplied for the record:]

Response of Bernard J. Wunder, Jr., to Additional Written Questions Posed by Senator Symms

1. We share the Committee's understanding that the present postal monopoly extends to the private carriage of "letters" only. It is also axiomatic that statutory terms should reflect but common understanding. Only what can be reasonably understood, the courts have noted, can be reasonably demanded of the public. See *Yale Broadcasting Corp.* v. *FCC*, 478 F.2d 594, 597 (D.C. Cir. 1973). As the Supreme Court has stated, "Good administration . . . and good judicial administration alike require that the standards of private enforcement and those for determining private rights shall be at variance only where justified by very good reasons." *Skidmore* v. *Swift & Co.*, 323 U.S. 134 (1944).

The U.S. Postal Service, however, has asserted authority to adopt interpretative regulations in a diversity of contexts including the private express law context. See, e.g., *National Retired Teachers Assoc.* v. *USPS*, 593 F.2d 1360, 1363

(D.C. Cir. 1969). These regulations, including regulations ostensibly defining the meaning of the statutory term "letter," have generally been sustained by the courts. See, e.g., *United States* v. *Brennan*, 576 F.2d 712 (2d Cir. 1978) ; *United States* v. *Black*, 418 F. Supp. 378 (D. Kan. 1976). Cf. *USPS* v. *City of Greenburgh Civic Associations*, 453 U.S. 114 (1981). We would thus defer to the considered opinion of the Department of Justice concerning whether such matters as fishing licenses or "orientations of magnetic particles having a predetermined significance" fall within the meaning of the statutory term "letters," as a matter of law. As a matter of general policy, existing constructions of the term may be overbroad; as a matter of law, however, they may well be legally sustainable.

2. Traditionally—and popularly—it has been assumed that the prevailing postal monopoly obtains only in respect of first class letter mail, and that second, third, and fourth class mail was exempt. In *ATCMU*, however, the court of appeals for the District of Columbia did apparently sustain the Postal Service's contention that definitions for rate-setting and monopoly enforcement purposes need not be the same. See *Associated Third Class Mail Users* v. *USPS*, 485 F.2d 768 (D.C. Cir. 1978), aff'g, 440 F. Supp. 1211 (D.D.C. 1977). Assumedly, therefore, virtually all first class, some significant share of third class, and part of fourth class mail volume today may fall within the scope of the postal monopoly, as the USPS defines it.

3. We share the Committee's understanding of the thrust of the *ATCMU* decision.

4–5. Varying definitions and possibly inconsistent USPS contentions in respect of the scope of the postal monopoly may, of course, affect the application of the criminal law sanctions contained in the private express laws. Judicial requirements that parties be afforded fair notice or warning of ostensibly prohibited conduct have long been quite rigorous in a criminal law context. See, e.g., *Grayned* v. *City of Rockford*, 408 U.S. 104, 108–09 (1972) ; *Culver* v. *Secretary of the Air Force*, 389 F. Supp. 331, 332 (D.D.C. 1975). Recent decisions, too, appear to impose high standards for consistency and regularity in civil contexts where persons' livelihoods are at issue. See, e.g., *SEC* v. *Sloan*, 436 U.S. 103, 112 (1978) ; *Miner* v. *FCC*, 663 F.2d 152, 157 (D.C. Cir. 1980). It is nevertheless conventional administrative law that an agency is not bound irrevocably to its regulations and prior interpretations, and may alter them through reasoned decisionmaking. See, e.g., *Wheaton Van Lines, Inc.* v. *ICC*, 671 F.2d 570, 527 (D.C. Cir. 1982) ; *Taunton Munic. Lighting Plant* v. *Department of Energy*, 669 F.2d 710, 715 (Emergency Appeals 1982). It is also true that the courts have held that congressional inaction in the face of questions concerning administrative interpretations aids in ratifying the legitimacy of those interpretations. See *Saxbe* v. *Bustos*, 419 U.S. 65 (1974). Although in the final analysis it is a question for the Justice Department and the courts, therefore, we do not believe that the Depression-era contentions of the Postal Service in a congressional hearings context necessarily affect adversely contemporary interpretations of the private express statutes, or the legal effect of the relevant regulations.

6. We would defer to the Postal Service regarding its belief that certain markets are prone to "cream skimming," should the present monopoly be eliminated, suspended, or relaxed.

7. New, competitive entry ordinarily occurs in those markets where incumbents are earning excessive profits or failing adequately to meet consumer demand, or both. We would defer to the views of the Postal Service concerning which of the markets it presently serves, if any, generate returns substantially in excess of relevant costs while failing adequately to meet public demand.

8. Mail volume has been increasing at a rate of about 5 percent annually during most recent years. Increasing volume, coupled with significantly higher rates, accordingly, has yielded significantly higher USPS revenues. We are unaware of any credible statistics precisely showing the present revenues of private courier and similar firms which now compete with the USPS on the fringes of the market. Some estimates are, however, that total competitors' revenues do not exceed $1 billion a year. In order for the USPS to incur a revenue loss, presumably exponential expansion and growth on the part of its far smaller "fringe" competitors would be necessary. To demonstrate such a potential loss, additionally, it would be necessary to show an inability on the part of the USPS to respond to competitive pressures, and relatively inelastic, non-expandable aggregate demand for mail delivery and related services. We have no precise estimates of the new revenue losses the USPS might hypothetically incur. It should be noted in this regard that in the telecommunications field, competition has generally had a positive effect on all firms' revenues, although in some markets established companies have lost market share. Here, as in other regulated industry contexts, therefore, we would

not predict any substantial loss of current revenues as a consequence of relaxing constraints on competition, although the future revenue gains of the USPS might conceivably be affected.

9. We would defer to the USPS concerning those specific markets it may now serve at a net loss.

10. We would defer to the Postal Service concerning the objections it might advance to a limited repeal of the present postal monopoly.

11. Presumably most of the Postal Service's existing competitors already pay State, Federal, and local taxes on revenues earned competing lawfully with the USPS, and some fraction of those Federal taxes goes to support present USPS operations. We have no firm opinion on the feasibility or desirability of a new gross receipts tax on all mail carriers, with the proceeds going to support nonremunerative USPS operations, although this clearly is an alternative to prevailing approaches that warrants some study by Congress.

12. We would defer to the Postal Service concerning the justification for continuing the postal monopoly in respect of international mail services the USPS itself does not provide.

13. Changes needed to facilitate full and fair competition would include, possibly, modification of the present statutory requirement that the USPS offer a class of service (presumably first class) at uniform nationwide rates (39 U.S.C. § 3623(d)) and changes in the statutory obligation that the USPS provide nationwide service (39 U.S.C. § 403(a)), although it should be noted that the USPS today offers certain services, such as "Express Mail" in only selected markets. In theory, there would be no general requirement for pervasive Postal Rate Commission scrutiny of rates and services offered in effectively competitive markets. Some regulatory scrutiny might be desirable as a transitional proposition, however, and also on a longer-term basis in order to minimize the potential for anticompetitive cross-subsidization.

14. There is an abundance of analysis in the economic literature concerning the sustainability of "natural monopolies" under conditions of open, competitive entry and minimal regulation. Cf. Ordover & Willig, *An Economic Definition of Predation: Pricing and Product Innovation*, 81 Yale L.J. 8 (1981) (and citations therein). We would, in any event, defer to the views of the Council of Economic Advisers concerning the need to buttress a "natural monopoly" with legal safeguards, if any.

15. Conventional economic wisdom has it that economic efficiency and, hence, "public interest," goals are optimally achieved when each user pays a price closely aligned with the cost of providing him service.

On the other hand, there are obvious practical problems as well as implementation costs implicated by proposals substantially to change the present (and traditional) practice of nationwide rate uniformity for first class mail. We would, in this regard, defer to the expert views of the Postal Rate Commission, however.

16. We are unaware of any economic evidence clearly establishing that subsidization achieved through the present tax laws is substantially less inefficient than subsidization accomplished through an internal industry pricing scheme. Economically speaking, both approaches are relatively inefficient. At issue, in our view, is not economic efficiency as such, but rather political accountability. Internalized cross-subsidization traditionally has engendered a maze of subsidies of uncertain magnitude and direction. We believe that any subsidization scheme, in order to be fully acceptable from a public policy standpoint, should ensure visibility and accountability. Achieving those goals does not necessarily require resort to the direct subsidy approach employed in respect of small town air service, although clearly Congress may choose appropriately to establish such a system. Before determining how best to subsidize, however, we believe it desirable first to determine the magnitude and the direction of any prevailing subsidies. Once that has been accomplished and the merit of continuing any support shown, decisions can then be made as to the best means of doing so.

17. We have no specific information concerning the relationship of the present postal monopoly and service to small towns. It should be noted in this regard, however, that parcel delivery companies including UPS and Purolator currently provide service to virtually all parts of the country and without benefit of special monopoly statutes or direct tax-based subsidies.

18. We know of no good reason why a direct subsidy approach would prove unworkable. In this regard, consideration might also be accorded proposals directly to subsidize users, as well as firms serving users. Such very direct subsidization approaches in respect of certain mail users were considered by the

Kappel Commission, upon many of whom's recommendations, the 1970 Postal Reorganization Act was based.

19. We have no information concerning how much it would cost to establish and maintain a direct subsidy system. Experience in the telecommunications field, however, has indicated that often there are more "target efficient" means of achieving public policy goals; in other words, goals including "universal basic telephone service," for example, could be accomplished in ways considerably less costly, both directly and in terms of operating costs, than is necessarily true today. We have no opinion at this time regarding the feasibility or desirability of a dedicated excise tax and trust fund system in the postal context. In theory, such an approach has advantages in that it achieves a closer correlation between those who would pay and those who would benefit from mail delivery services. At present, all taxpayers, for example, contribute to the support of the USPS although not all taxpayers make use of the system. This is a proposal we would like to study further, however, before reaching any firm policy conclusions.

20. We would defer to the expert views of the Postal Rate Commission regarding the legal authorities and practical powers it enjoys in respect of planned post office closings.

21. We believe that the USPS is best able to inform the Committee concerning the criteria employed in conjunction with post office closing decisions.

22. We believe that the USPS is best able to inform the Committee concerning the criteria it employs in selecting star route and other contract mail carriers.

23. There is a diversity of opinion concerning the relationship, if any, between market structure, competition, and innovation. These are two of the major statistical results of one credible survey of the literature fairly recently undertaken. First, medium sized firms (about $200 million in annual sales) tend to indicate a higher research and development (R&D) intensity (R&D expenditures as a ratio of sales) than either larger or smaller firms. Second, industries with a medium amount of concentration (a four-firm concentration ratio of about 55 percent) generally reflect a higher R&D intensity than industries that are either more or less concentrated. See A.D. Little, Inc., *The Relationship Between Market Structure and the Innovation Process*, Appendix C (1976). There is also some evidence that suggests highly concentrated and regulated industries will tend to focus chiefly on means to reduce costs ("cost-reducing innovation") and less concentrated, more competitive industries, on new product development ("demand-inducing innovation"). Obviously, there is a broad range of subjective judgments available concerning the relative social utility of these kinds of activities, as well as means of enhancing or suppressing them.

In the case of the Postal Service, there may well be a limited innovation potential intrinsic to the basic processes involved. In addition, there are costs and risks associated with any R&D undertaking, and legitimate questions can be posed when at issue is the use of public money for possibly risky and costly purposes better left to the private sector. Intuition, if nothing more, would suggest that the USPS would undertake substantially more cost-reducing innovation, if confronted with effective competition. To what degree competition would also spur greater product and service innovation on the part of the USPS is less clear, although presumably there would be some positive effect.

24. We believe that a fair reading of the record will indicate that overnight delivery services were in fact widely available prior to the USPS' offering of "Express Mail." Indeed, a number of private courier firms strongly objected to this new offering on the ground that the market targeted by the USPS was already adequately served by the private sector. Relatedly, it is our understanding that courier delivery services today are available to a greater number of locations than is true of "Express Mail." Indeed, some couriers have objected to the limited scope of this USPS offering on the ground that the USPS is endeavoring to "cream skim" the overnight delivery business.

25. We are aware of no aspects of ECOM that could not or would not be provided by the private sector. Indeed, there are today an increasing number of private companies offering "electronic mail" services directly competitive, or functionally superior, to the USPS' offering. So far as we know, the USPS has never seriously contended that electronic mail services will not be available unless provided by it, because such services will prove unprofitable.

26. As indicated in our testimony before the Committee, as well as in pleadings before the Postal Rate Commission in the ECOM proceeding, we are aware of no statutory authority that explicitly authorizes the USPS to provide electronic services. Nor have such USPS offerings been sanctioned by the Administration or, to our knowledge, by the independent Postal Rate Commission.

27. A number of regulatory agencies have subpoena powers, but exercise them rarely in respect of regulated firms. This is because they lack authority independently to enforce such orders in the court, and, typically, by the time such orders are enforced, the occasion for the information requested has passed. The Federal Communications Commission, for example, has very rarely exercised its formal subpoena powers but generally relied instead upon voluntary compliance. Indeed, its most recent comprehensive investigation of a regulated industry, the 1979–80 *Network Inquiry* was undertaken and completed without resort to compulsory process.

We do not have the knowledge or experience in USPS matters obviously enjoyed by the Postal Rate Commission. Although we have not studied the issue closely, we would defer to the judgment of Chairman Steiger in this matter.

28. We would defer to the views of the Postal Rate Commission concerning the changes Congress might appropriately consider in respect of the regulatory provisions of the 1970 Act.

29. At present, the volume of mail handled daily by the USPS exceeds 300 million pieces, typically. Although it is sometimes said that United Parcel Service handles more parcels and packages, it should be noted that the Postal Service and UPS employ different definitions, and if the USPS used similar criteria, its volume would probably exceed that of UPS. Mail and parcel volume continues to increase. While it is possible that private entrepreneurs eventually might provide services as extensive as those now provided by the USPS, there would have to be truly exponential growth on their part or very radical changes in mail flow, or both. We do not expect either to occur in the near term.

AFTERNOON SESSION

Senator Symms. The subcommittee will come to order. We will resume our hearing on the question of the future of mail delivery in the United States.

We're very pleased this afternoon to have James C. Miller, Chairman of the Federal Trade Commission, testify before us.

I note with interest that you are properly attired, Mr. Miller, with an Adam Smith necktie. I think that it is welcome to have the Federal Trade Commission have a chairman who wears an Adam Smith necktie in view of what has been the case in past times.

So, we're happy to hear from you.

STATEMENT OF HON. JAMES C. MILLER III, CHAIRMAN, FEDERAL TRADE COMMISSION

Mr. Miller. Thank you, sir.

Senator Symms, I'm pleased to have this opportunity to present my views regarding the performance of the U.S. Postal Service—or USPS—and the need for significant relaxation in current rules affecting first-class mail.

I would like to commend the subcommittee for addressing this important topic.

Let me emphasize that I have the greatest respect for the men and women of the USPS. My personal view is that Postmaster General Bolger is doing a commendable job in addressing the myriad of challenges he must face.

With your permission, Senator, I would like to submit for the record a more detailed prepared statement and proceed now to address, in summary form, some of the more important postal issues.

Senator Symms. Your entire statement will be part of the record.

Mr. Miller. Perhaps it will be useful for me to begin with a brief look at the U.S. postal system. While the Constitution provides Congress with the power to establish post offices and post roads, it does not require that the carriage of mail be a monopoly, much less a Government monopoly. Nevertheless, when Congress established the Post Office Department in 1789, it gave the new Department the exclusive right to carry letters for hire over all post roads.

Following the old adage, "Where there's a will, there's a way," competitive private postal services began to emerge, and Congress then regularly revised the postal laws in an effort to preserve the governmental postal monopoly. Ironically, the Pony Express, often used as a symbol of U.S. mail service, was not an invention of the U.S. Post Office but was introduced by private postal companies that were, in turn, put out of business by the private express statutes.

Finally, in 1845, Congress directly prohibited private express companies from carrying letters for hire except in a few specific instances. Those private express statutes, with few modifications, are still law.

In 1970, Congress reorganized the Post Office by creating the USPS as an independent, quasi-governmental business, intended to make the delivery of mail more efficient and to be economically and politically independent.

While the basic decision, of course, has been made by Congress, it is important to note that USPS exercises considerable discretion in determining the extent of its monopoly over letters. USPS has defined "letters" to include bills, receipts, IBM cards, magnetic cards, magnetic tapes, and so forth. In the past several years, the Postal Service has typically moved into new service areas by first claiming that they fall within its monopoly and later announcing a suspension of some aspects of that monopoly. The Department of Justice has questioned the propriety and wisdom of this process.

Now, let me make a few comments on how the USPS postal monopoly is regulated.

As you know, under Congress reorganization, the USPS' Board of Governors and the Postal Rate Commission, or the PRC, share responsibility for the mail classification schedule and postal rates and fees. In recent years, the relative balance of authority appears to have shifted considerably toward the USPS and its Board of Governors. Some Federal courts have limited the PRC's review of USPS actions. More important, the PRC's authority to police USPS costs and prices has also been diminished. This ability has always been constrained because the Postal Service possesses and controls much of the data necessary to support rate and classification changes. Unfortunately, this date has not been subject to thoughtful, careful analysis that would permit a more scientific allocation of postal service costs.

As you know, in time, the proportion of costs that could be allocated to various classes of mail have risen. I think such an analysis is long overdue and would enable the PRC, Congress, and anyone else to more efficiently carry out the mission of regulating and interacting with the Postal Service.

One reason for concern about the Postal Service's monopoly over first-class mail is that private firms normally perform better than Government enterprises. Competition among firms in a free market most efficiently allocates the Nation's scarce resources. A private firm normally has greater flexibility and more incentive to innovate and to cut costs than does a quasi-governmental enterprise such as the U.S. Postal Service.

The classic justification for Government enterprise is that the marketplace has failed and the private sector cannot or will not provide a particular good or service on its own. But this does not appear to apply in the provision of first-class mail service. After all, there's a long list of private entrepreneurs who have tried to deliver low-cost, first-class mail but who were driven out of business by the U.S. Postal Service, not by head-to-head competition, but through repeated Postal Service court actions to enforce its monopoly.

There is also ample evidence that monopolized markets do not normally perform as well as competitive ones. A telling example of the potential benefits of private competitors, in the absence of the postal monopoly, is the success of private express mail services.

Despite the threat of suit by the U.S. Postal Service, numerous private carriers developed in the 1960's and the 1970's, specializing in rapid and reliable transportation of commercial documents. Private express delivery services now compete openly and freely with the U.S. Postal Service for that portion of the first-class market.

The basic argument in favor of a—regulated—monopoly rests on the assumption that the firm in question is a natural monopolist—that is, service can be provided more cheaply by a single firm than by many firms in competition. But there is no solid evidence that the first-class mail service has this characteristic. Indeed, if the handling of first-class mail were a natural monopoly, the U.S. Postal Service would not need the protection of the private express statutes. By definition, competitors would not be able to provide the same quality of service at an equal or lower price. The U.S. Postal Service would need protection for its monopoly, however, if it is not as efficient in delivering mail as competitive enterprises.

The preceding remarks do not suggest that there are no beneficiaries of the current arrangement. Rather, from society's perspective, the losses associated with the statutory Government monopoly over first-class mail may exceed the benefits derived from it. The Justice Department and the Council on Wage and Price Stability, while I was there—in fact, I signed the document—have independently reach this very conclusion.

Considering the strong presumption against the efficiency of a Government monopoly, it seems to me that the burden of proof should be on those who maintain that the private express statute should stay on the books.

It would seem illogical to allow the U.S. Postal Service, which has the data and the most to gain by demonstrating the existence of the conditions making for a natural monopoly, to fail to make a showing for this proposition by means of a thorough review of the relevant data.

In my view, the U.S. Postal Service should be required to produce a detailed, empirical study of whether the economic justification exists, if it ever did, for continuing the statutory monopoly over first-class mail. All data used in this study should be made public, and the report should be reviewed widely by various experts. Should such an investigation fail to provide strong economic justification for a continuation of the postal monopoly, I would urge Congress to repeal the private express statutes.

My preliminary review of that repeal is that that repeal of the private express statutes would likely have a substantial beneficial effect on the market for first-class mail. For example, a category of first-class mail that arguably could be provided at lower cost is transaction mail. Such mail, which makes up a significant portion of first-class mail, tends to be generated by relatively few, high-volume, local business mailers and their customers and to be delivered in high-density areas. Delivery of that mail, bearing typed addresses, is less costly than delivering a letter of the same weight over long distances between nonurban points. Yet, both types of mail currently are charged the same postage. In a competitive market for first-class mail, consumers who use lower cost mail services would benefit from lower rates for these services.

Repeal of the private express statutes could result in higher rates and/or reduced service for some postal users, just as it would likely result in lower rates and/or improved service for others. But any shifting of the relative rates and services would insure that Postal Service prices reflect the cost of providing them and would generate significant savings for society. If it were felt that a particular type of mail, such as rural delivery, should have its price discounted or its service increased, then Congress could grant an explicit subsidy to the users of that type of mail for less than the USPS' current cost.

Although the Postal Reorganization Act of 1970 prohibits subsidization across classes of mail, it has been alleged that the USPS' approach to costing and pricing leads to such cross-subsidization, perhaps unintentionally, and the inefficiencies associated with it. Now, frankly, Senator, I have looked at some of this data, and it is not of sufficient sophistication for one to make a determination of whether there is cross-subsidy. I think one reason we desperately need a study is to answer that question and to answer how various customers—within classes of mail—are bearing the costs of the system.

Finally, I would like to make a few comments about the Postal Service's provision of electronic message service. The fundamental issue is whether there's a need for the USPS to provide such services. The Postal Service's present service, known as E–Com, is a blend of telecommunications in the traditional hand delivery of mail. While Postal Service delivery of stuffed envelopes seems clearly within the traditional role, telecommunications and data processing are not. This new role is especially difficult to justify in view of the desire and ability of private firms to provide such services.

A short step away from the present service is the so-called Generation III service, which involves end-to-end electronic messages from sender to recipient. Since this would not involve the physical delivery of mail, Generation III service cannot be characterized as simply the traditional postal mission by more modern means.

In the absence of apparent justification for such activities, I support the recommendations contained in the 1979 Presidential Review Memorandum on Postal Service Involvement in Electronic Mail Offerings that the Postal Service be prevented from offering end-to-end links from building its own transmission network.

Now, allow me to conclude with a few recommendations.

First of all, the United States Postal Service should be made to bear the proof of demonstrating, if it can, that first-class mail service is, indeed, a natural monopoly in need of legal protection. If such a study failed to provide adequate justification for continuation of the legal monopoly, then, for the reasons I described earlier, I would urge Congress to consider seriously repealing the private express statutes.

Even if such a study affirmed the existence of a natural monopoly in first-class mail, perhaps as an interim measure, Congress might well want to consider other actions to increase the accountability of the United States Postal Service and to protect the interests of consumers. As a start, Congress could restrict the ability of the Postal Service to set the bounds of its own monopoly by either statutorily defining "letter," the term "letter" as it appears in the statute, or by providing increasing oversight by the Postal Rate Commission and/or by the Congress.

Congress should also strengthen the power of the Postal Rate Commission to provide truly vigorous and independent oversight of the Postal Service and its Board of Governors.

I should tell you, frankly, that I have doubts about the ability of any regulator to do a perfect job. I know this from experience as well as theory. But if the Postal Rate Commission were given direct guidelines, as well as the requisite authority, for example, the power to initiate rate increases, subpena power, I think the situation could be improved.

In addition, Congress could limit the Postal Service's ability to enter new fields of services such as E-Com without Postal Rate approval and/or direct congressional authorization. In my view, such expansion and direct competition with the private sector requires compelling justification.

Finally, let me emphasize that these proposals and this discussion are not meant to be critical of the Postal Service and the fine people of that organization. My theme instead is that, by addressing today's economic realities, postal service in this country might well be improved, to the long-term benefit not only of consumers but the Postal Service itself.

Senator, that concludes my remarks at this time. And I'd be glad to address any questions you might have.

[The prepared statement of Mr. Miller follows:]

PREPARED STATEMENT OF HON. JAMES C. MILLER III [1]

Mr. Chairman and Members of the Subcommittee: I am pleased to have this opportunity to present my views regarding the performance of the United States Postal Service (USPS) and the need for significant relaxation in current rules affecting the delivery of first-class mail. I would like to commend the Joint Economic Committee for addressing this important topic. As you know, it is quite broad and raises a number of complex questions, some of which have been addressed by officials of the Federal Trade Commission (FTC).[1] A logical approach to them would be to address first the legal and institutional history of what has become known as the "postal monopoly." From there I will proceed to a discussion of the reasons why controlling costs and setting prices has been so difficult since the creation of the USPS in 1970.

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[1] The views expressed here are those of Chairman Miller and do not necessarily reflect the views of any other Commissioner.

Next, I will explore the inefficiencies created by the private express statutes, and explain why there is a need for more competition in the provision of postal services. I will then discuss the likely ramifications of repeal of the strictures that grant USPS a monopoly on first-class mail. After that, I will address concerns about the possibility of harmful cross-subsidization, and also potential anti-competitive effects from USPS operations such as E-COM (Electronic Computer-Originated Mail). I will close with a series of recommendations on what the Congress might do in order to enhance competition in the postal area to the benefit of its customers--who are, after all, virtually every citizen of our country.

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[1] Prior work in this area at the FTC includes the testimony of Timothy J. Muris, Director, Bureau of Consumer Protection, on "The Provision of Telecommunications and Information Services by the Federal Government in Competition with the Private Sector," before the Government Information and Individual Rights Subcommittee of the Committee on Government Operations, U.S. House of Representatives, February 25, 1982.

My own prior involvement in this area includes testimony before the Postal Rate Commission in Docket R74-1 (1974), and co-authoring with Roger Sherman, "Has the 1970 Act Been Fair to Mailers?," in Roger Sherman (ed.), Perspectives on Postal Service Issues, American Enterprise Institute, 1980, pp. 53-69.

Let me emphasize at this point that I have the greatest respect for the men and women of the USPS. My personal view is that Postmaster General Bolger is doing a commendable job in addressing the myriad of challenges he has to face. My intent is not to criticize the USPS, but rather to discuss possible ways we may all join together to improve postal service in this country.

Postal History

It would be useful to begin with a brief excursion into U.S, postal history. While the Constitution provides Congress with the power "to establish post offices and post roads," it does not require that the carriage of mail be a monopoly, much less a government monopoly. Nevertheless, perhaps because of a desire to unify a growing nation when there were possibly no private businesses capable of delivering mail throughout the several frontier states,[1] or because the provision of postal services had been a monopoly in England,[2] Congress passed temporary laws establishing the Post Office Department as a monopoly in 1789. Shortly thereafter, it enacted more comprehensive statutes limiting the private carriage of mail. These statutes reserved to the federal government the exclusive right to carry routinely letters for hire over post roads.

Even though Congress sought to secure a postal monopoly for the government, private express businesses proliferated. These private firms used technological advances and gaps in legislation to compete directly with the government. Throughout the first half of the 19th century Congress regularly revised the postal laws in an effort to eliminate this competition. For example, an 1825 statute that prohibited anyone but the government from carrying letters in vehicles over any post routes was amended two years later to prevent private entrepreneurs from carrying letters on horseback or foot. Ironically, the Pony Express, often used as a symbol of U.S. mail service, was not an invention of the U.S. Post Office, but was introduced by private postal companies that were, in turn, put out of business by the private express statutes. In 1845, Congress directly prohibited private express companies from carrying letters for hire, except in a few specific instances.[1] These private express statutes were recodified in 1872 and, with a few modifications, are still law.

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[1] See, e.g., George L. Priest, "The History of the Postal Monopoly in the United States," 13 J.L. & Econ. 33, 51-68 1973). But such justification would seem no longer applicable, if it ever was. The U.S. is a mature country with a nation-wide system of radios, television, newspapers, magazines, telephones, and other communications media.

[2] See, e.g., R.H. Coase, "The Postal Monopoly in Great Britain: An Historical Survey," in Economic Essays in Commemoration of the Dundee School of Economics, 1931-1955, at 25 (J.K. Eastham, ed. 1955).

In 1970 Congress reorganized the Post Office by creating the United States Postal Service as an independent, quasi-governmental business, designed to make the delivery of mail more efficient and to make the Postal Service economically and politically independent. The postal monopoly for letters (first-class mail) was maintained. As before, the monoploy did not extend to newspapers and magazines (second-class mail), direct mail advertising (third-class mail) or parcels (fourth-class mail).

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[1] 5 Stat. 732 (March 3, 1845).

The Postal Service exercises considerable discretion in determining the extent of its monopoly over letters.[1] Thus, on the one hand, while it has "suspended"[2] its monopoly for certain letters (such as time-sensitive materials which the present system is incapable of delivering on time), on the other hand it has expanded its monopoly by defining "letters" to include bills, receipts, IBM cards, magnetic cards, magnetic tapes, and other business documents. Recently, as new service areas such as express mail have developed, the Postal Service has typically first asserted that these new service areas fall within its monopoly and then announced a suspension of its monopoly with respect to some aspects of the new service areas.

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[1] The USPS currently defines a "letter" as any "message directed to a specific person or address and recorded in or on a tangible object." 39 C.F.R. § 310.1(a). Thus, letters include items as diverse as advertising posters, credit cards, data processing materials and computer tapes.

[2] The USPS has asserted that it has authority to exempt materials from the operation of the postal monopoly pursuant to 39 U.S.C. § 601(b). Thus, the USPS defines its postal monopoly broadly to include materials (such as certain data processing materials, materials mailed within a college campus, etc.) but then "suspends" its monopoly over such materials, allowing private companies to carry such mail.

As you know, the Department of Justice has already questioned the propriety and wisdom of this process.[1]

At the time it attempted to depoliticize postal service, Congress structured the USPS as an independent establishment within the executive branch and eliminated the Cabinet-level Post Office Department. Under the statutory scheme, the USPS, its Board of Governors[2] and the Postal Rate Commission (PRC)[3] share responsibility for the mail classification schedule and postal rates and fees. The PRC was intended by Congress to provide an independent review of changes in postal rates and classes in order to protect the public interest. However, the PRC's power of review is limited since the Board of Governors can override the PRC's recommendation by unanimous vote.

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[1] Comments of the Department of Justice, Re: Amendments to 39 C.F.R. Parts 310 and 320: Proposed Revisions in the Comprehensive Standards for Permissible Private Carriage of Letters, U.S. Postal Service, March 13, 1979.

[2] The USPS has an eleven-person Board of Governors, nine of whom are appointed by the President and confirmed by the Senate. Those nine appoint the other two members of the Board, namely, the Postmaster General and Deputy Postmaster General. Postal Reorganization Act of 1970, P.L. 91-375, Subsection 202, August 12, 1970, pp. 2-3.

[3] The PRC consists of five Commissioners, all of whom are appointed by the President and confirmed by the Senate. Postal Reorganization Act of 1970, P.L. 91-375, Subsection 3601, August 12, 1970, p. 41.

Federal Court Restrictions on PRC's Review Authority

In recent years, federal courts have sharply limited the PRC's review of USPS or Board actions. For example, there have been only five general ratemaking proceedings since the Postal Reorganization Act went into effect. The PRC attempted to require more frequent rate reviews, but the Second Circuit Court of Appeals ruled that the PRC cannot do this by arbitrarily reducing the USPS' estimates of revenue requirements. The Court stated that "the Board, and not the PRC, is responsible for making policy decisions for the Postal Service. . . [and] [s]hould the Board exceed its authority or make questionable policy choices, remedies may be pursued through Congressional amendment or judicial review."[1]

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[1] Newsweek, Inc. v. United States Postal Service, 663 F.2d 1186, 1204-5 (2nd Cir. 1981). Similarly, the Second Circuit has rejected the PRC's attempt to force the USPS to initiate Electronic-Computer Originated Mail (E-COM) as a limited-duration experiment rather than on a permanent basis. Governors of the United States Postal Service v. United States Postal Rate Commission, 654 F.2d 108, 115-17 (D.C. Cir. 1981). The court held that the PRC had both encroached on the Board's judgment and discretion as business managers and exceeded its statutory authority because only the Board and USPS may decide whether to request a decision from the PRC on rate changes. Under these court interpretations the USPS apparently has wide managerial discretion with respect to entering new fields.

Most importantly, the PRC has been unable to police USPS cost allocations or prices in some areas, while proving somewhat ineffective in others. The PRC has always been constrained by the simple fact that the USPS possesses and controls much of the data necessary to support rate and class changes and provides only limited amounts of information to the PRC. Two years ago I wrote,

> ...the careful, objective analyses that would permit a more scientific allocation of postal service costs have not been used by the Postal Service, although eight years have passed since a law requiring such costs as a basis for rates went into effect.[1]

Nothing has occurred in the last two years that would permit me to soften that assessment. Indeed, recent court interpretations of Section 3622(b), 39 U.S.C. § 3622(b), which sets forth the factors to be considered in setting rates, have imposed additional constraints on PRC review of costs. A dispute over the use of cost-of-service principles has developed in the federal appellate courts. Until the Supreme Court resolves this dispute, the PRC's attempts to question USPS' future rate proposals will be on uncertain grounds.[1] This is not to suggest by any means that the PRC has done everything in its power to fulfill its "watchdog" function. More action by the PRC across a broad spectrum of matters would be in keeping with its oversight mandate.

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[1] See Sherman and Miller, op. cit., p. 59. This is a crucial problem for a number of reasons, not the least of which is that costs that are not properly identified are not easily controlled.

The Postal Monopoly: Is It Economically Justified?

Another central issue is the existence of the USPS monopoly over first-class mail. Economic theory and empirical evidence indicate that, in the absence of market failures such as so-called "natural monopoly" situations, competition among firms in a free market most efficiently allocates resources and best encourages growth and innovation.[1] A private firm normally has greater flexibility and more incentive to innovate and reduce its costs than a quasi-governmental enterprise, like the USPS. Quasi-governmental enterprises tend to be less concerned about economic efficiency.

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[1] The Supreme Court recently agreed to hear this dispute between the D.C. and Second Circuits in granting cert on appeals of *National Ass'n of Greeting Card Publishers v. United States Postal Service* (81-1304) and *United States v. United States Postal Service* (81-1381). *See* *Wall St. J.*, April 20, 1982, p. 12. The cases are scheduled for argument in the Fall Term, 1982.

Until 1981, in its ratemaking proceedings, the PRC operated under a D.C. Circuit mandate that it attribute and assign postal costs to the maximum extent possible, using cost-of-service principles. *National Ass'n of Greeting Card Publishers v. United States Postal Service*, 607 F.2d 392 (D.C. Cir. 1979); *cert. denied*, 444 U.S. 1025 (1980). Remaining costs were then allocated in a discretionary manner. The Second Circuit, however, recently rejected the D.C. Circuit's interpretation of § 3622(b). According to the Second Circuit, the PRC need only ensure that "each class or service bear as a minimum [those] direct and indirect costs attributable to that class or service," with the balance of costs allocated in a discretionary manner. *Newsweek, Inc.*, *supra* at 1200. In other words, the Second Circuit would allow the USPS great leeway in the way it accounts for overhead expenses and those costs which could be classified as being incurred by several classes of mail.

The classic justification for government enterprise is that the market cannot -- or will not -- provide a particular good or service on its own. But many private entrepreneurs have tried to deliver first-class mail items such as Christmas cards and advertising posters -- and have done so at rates below those charged by the USPS. Yet most have been driven out of business by the USPS -- not by head-to-head competition, but through court enforcement of the private express statutes.[1] In fact, a number of firms legally deliver some of their own first-class mail themselves more cheaply than the USPS would, even though they are hampered by rules that are designed to discourage such delivery (*e.g.*, prohibiting the firms from using part-time employees for their deliveries).[2] In addition, there are a number of examples of private firms providing or preparing to provide certain mail services even before the USPS entered the field.[3] Since private firms apparently can and want to provide a wide range of mail services, the assertion that some form of market failure fully supports government enterprise in the postal industry may be viewed with a fair measure of skepticism.

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[1] The evidence is particularly compelling in studies of markets in which the government competes directly with private suppliers of goods and services. *See*, *e.g.*, Ahlbrandt, "Efficiency in the Provision of Fire Services," 16 *Pub. Choice* 1 (1973) (finding private firm provides goods at lower cost than government agency); Crain & Zardkoohi, "A Test of the Property-Rights Theory of the Firm: Water Utilities in the United States," 21 *J.L. & Econ.* 395 (1978) (finding higher operating costs in publicly owned water utilities); Davies, "The Efficiency of Public v. Private Firms: The Case of Australia's Two Airlines," 14 *J.L. & Econ.* 149 (1971) (finding private company more efficient than public firm); Lindsay, "A Theory of Government Enterprise," 84 *J. Political Econ.* 1061, 1965 (1976) (determining government managers maximize self-interest by producing output Congress is likely to value more highly than consumers do); and Peltzman, "Pricing in Public and Private Enterprises: Electric Utilities in the United States," 14 *J.L. & Econ.* 109 (1977) (finding that government-owned firms adopt pricing policies that enhance their political support, not consumer welfare).

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[1] *See*, *e.g.*, *United States v. Black* , 569 F 2d 1111 (10th Cir. 1978); *cert. denied*, 435 U.S. 944 (1978); *United States Postal Service v. Brennan*, 574 F.2d 712, 716 (2d Cir. 1978); *application denied*, 439 U.S. 1345 (1978); *cert. denied*, 439 U.S. 1115 (1978). Short of lawsuits, the USPS also sends out warning letters to mail users, notifying them of the possible unlawfulness of certain private mail services.

[2] *See* John Haldi, *Postal Monopoly: An Assessment of the Private Express Statutes*, American Enterprise Institute, 1974, pp.27-28.

[3] Express mail and electronic computer-originated mail services are two such examples.

Poor performance is particularly likely from a monopoly, such as the USPS has on first-class mail. There is ample evidence, both theoretical and empirical, that monopolized markets do not normally perform as well as competitive ones.[1]

The lack of competition for the delivery of first-class mail specifically may reduce the USPS' incentive either to innovate or to reduce its operating costs. Perhaps the best evidence that innovation and lower prices would result from repeal of the private express statutes is the USPS's experience with its fourth-class parcel post mail. As of 1974, with about 200 years of postal experience, the USPS shipped all of its parcels in bags, which resulted in high breakage rates and handling costs. However, the United Parcel Service (UPS), a private competitor, pioneered in mechanizing and containerizing the handling of parcels. This innovation reduced breakage and lowered handling costs, thereby enhancing the competitive position of the UPS vis-a-vis the USPS.[1] According to Haldi:

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[1] See, e.g., F. M. Scherer, Industrial Market Structure and Economic Performance, 14-21 (2d ed. 1980), for a theoretical comparison of monopolist and competitive markets. A number of Federal Communications Commission (FCC) decisions that altered the monopoly conditions formerly prevailing in the common carrier communications field provide empirical evidence that competitive markets perform better than monopolized ones. The Chairman of AT&T, for example, testified that as a direct result of the FCC's rulings, the Bell System companies were forced to become more innovative and to deploy the results of that innovation more rapidly. In addition, the prices Bell charged were generally reduced and new policies reflecting more cost-related pricing were adopted. See generally letter from FCC Chairman R.E. Wiley to All Members of Congress on H.R. 12323, May 25, 1976.

> [I]n the area of containerization and mechanization, it's reasonable to conclude that free competition could not have resulted in less innovation. . . . There are reasons for believing that active competition [in first-class mail service] will simultaneously improve service and lower cost.[2]

Another telling example of the potential benefits of competition is the success of private express mail services. Despite the threat of suit by the USPS, numerous private carriers (called "couriers") developed in the 1960's and 1970's, specializing in the rapid and reliable transportation of commercial documents. In 1973, the USPS responded to this innovation by establishing its own express delivery service called "Express Mail." But in 1974, the USPS attempted to expand its postal monopoly to include express mail services. Political pressures, however, ultimately forced the USPS to cease these efforts, and private express delivery services now compete openly and freely with the USPS.

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[1] The USPS tried to learn from the UPS's success by building a one billion dollar bulk mail system to improve its handling of parcel post mail. But that effort has been such a failure that the General Accounting Office has suggested that the USPS write the investment off as a loss. See Joel L. Fleishman, "Postal Policy and Public Accountablility: Is the 1970 Bargain Coming Unglued?" (Draft), Program on Information Resources Policy, Harvard University, 1981, p. 94.

[2] John Haldi, op. cit., pp. 47-48.

The classic economic argument in favor of a (regulated) monopoly rests on the assumption that the firm in question is a "natural monopolist." A natural monopolist is "a firm which is the sole seller and producer of a set of goods whose technology makes single firm production cheaper than any other alternative."[1] But we have no convincing evidence that mail service has this technological characteristic despite the

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[1] See John C. Panzar and Robert D. Willig, "Free Entry and the Sustainability of Natural Monopoly," Bell J. of Econ., Spring, 1977, p.1.

USPS's claims that it does.[1] Rather, it is apparent that the USPS monopoly on first-class mail is substantially based on criteria other than economic efficiency.[2] If, in fact, the handling of first-class mail were a natural monopoly, the USPS should not need the private express statutes to protect its monopoly position.[1] By definition, competitors would not be able to provide the same quality of service at the same or lower cost.[2] Consequently, the USPS's position would be secure without legal protection (making the private express statutes superfluous) unless its monopoly protection enabled it to price mail significantly above its cost or it is inefficient (i.e., incurring unnecessary costs). In the latter case, removing the private express statutes would likely improve efficiency and result in lower prices.

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[1] The USPS's assertion that postal services are a natural monopoly because they exhibit substantial economies of scale is at variance with the available evidence. For instance, an empirical study by the Post Office itself did not uncover economies of scale. See Bureau of Finance and Administration, U.S. Post Office Department, Summary Report of Cost System Task Force on Incremental Costs (Washington, D.C., May 1970). See also the review of studies in U.S. Postal Rate Commission, "Economies of Scale in Postal Service" by Leonard Merewitz (August 30,1973, processed); and the review contained in the Initial Decision, Docket R74-1, pp.78-90. No general economies of scale were found in Rodney E. Stevenson, "Postal Pricing Problems and Production Functions" (Ph.D. dissertation, Michigan State University, 1973).

See also Sherman and Miller, op. cit. The Chief Administrative Law Judge, in PRC Docket No. R74-1, Vol. 1 p. 78, also concluded that the existence of economies of scale was not proven by the evidence at hand. Similarly, the Department of Justice felt that there was "virtually no credible evidence that this [i.e., economies of scale] is actually the case." See U.S. Department of Justice, Changing the Private Express Laws (1977).

[2] See, e.g., George L. Priest, "The History of the Postal Monopoly in the United States, "13 J.L. & Econ. 33, 33-80 (1973).

The preceding remarks do not suggest that there are no beneficiaries of the current arrangement. Rather, economic theory and empirical evidence suggest that from society's perspective the losses associated with a statutory government monopoly over first-class mail may exceed the benefits derived from it. Just such a judgment that the costs exceed the benefits led the Justice Department and the Council on Wage and Price Stability, independently, to suggest that the private express statutes be repealed in order to allow the entry of private competitors into the market for first class mail.[1]

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[1] Contrast the repeated attempts by private companies to enter the market for first class mail with the lack of attempted entries in some other fields possessing demonstrated economies of scale (e.g., electric power distribution). Moreover, the mere existence of a natural monopoly does not automatically indicate a need for a government enterprise. See Demsetz, "Why Regulate Utilities?," 11 J.L. & Econ. 55 (1968).

[2] Under special circumstances, it is theoretically possible for an entrant to provide one of a natural monopolist's services at a price lower than the most efficient price, in which case the natural monoply is said to be "unsustainable." See, e.g., Panzar and Willig, pp. 1-22. But we have no evidence that the postal monopoly is unsustainable. In fact, Willig, who has contributed significantly to this new research, indicates his belief that "there is no evidence that the cost conditions for that are present in postal services." See Bruce M. Owen and Robert D. Willig, "Economics and Postal Pricing Policy," Program on Information Resources Policy, Harvard University, 1981, p. 10.

Need for a Study of the Postal Monopoly

Considering the strong presumption against the economic efficiency of a government monopoly, it seems to me that the burden of proof that the postal monopoly's benefits outweigh its costs should be on those who support maintaining the private express statutes. It should not be assumed that the USPS is a natural monopoly, in need of government action prohibiting competitive entry, as the private express statutes effectively do.[2] It would seem illogical to allow the USPS, with both the data (or the capacity to generate it) and the most to gain by demonstrating the existence of such a natural monopoly, to simultaneously avoid independent review of much of its data while claiming the benefit of any doubt.

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[1] *See* U.S. Department of Justice, *Changing the Private Express Laws* (1977) and "Comments of the Council on Wage and Price Stability Concerning the Private Express Statutes," Docket No. R76-4, 1976.

[2] Government protection would be necessary if and only if the Postal Service is an unsustainable natural monopoly.

Where do we proceed from here? I think we obviously need more information, and I think the USPS itself is the logical candidate for providing it for two reasons. First, the USPS should have the incentive to prove that it is a natural monopoly since it has already taken that position publicly. Second, the USPS has easy access to and familiarity with the data that would be needed for such a study.[1]

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[1] Data that would be needed to test an "unsustainability" theory include the extent of complementarities in production between the USPS' outputs, the substitution relationships among its products' demands, and how the USPS' costs (including its joint and common costs) vary with changes in its output. If some of this data does not currently exist, serious consideration should be given to generating it. I testified to that effect in Docket No. R74-1. More recently, Clyde S. DuPont, former Chairman of the PRC, has indicated that existing postal data is inadequate. See Clyde S. DuPont, "The Postal Rate Commission," in Sherman (ed.), Perspectives, op. cit., pp. 114-116.

The USPS's unwillingness to make its data available to others has prevented other parties from examining the efficiency of its operations. According to the Department of Justice (in 1977), "there is no credible and reliable evidence at hand that would permit public policy makers to reach an informed judgment regarding the need, if any, to retain the private express statutes." See U. S. Department of Justice, op. cit., p. 27. In fact, even the Postal Rate Commission (PRC) which is required by law to review the USPS's rates, has sometimes had difficulty (CONTINUED)

I believe that the USPS should be required to produce a detailed empirical study of whether a strong economic justification exists for continuing its statutory monopoly over first-class mail.[1] All data used in this study should be made public, and the report should be reviewed widely by various experts.[2] Should such an investigation fail to provide strong economic justification for a continuation of the postal

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(FOOTNOTE CONTINUED)

getting relevant data from the USPS. *See*, *e.g.*, pp. 1-5 of Appendix E to United States of American Postal Rate Commission, Docket No. R80-1, Appendices to Opinion and Recommended Decision, Volume 2, February 19, 1981. This unavailability of vital data regarding USPS functions has not been limited to pricing matters alone. In December of 1981 the PRC even suspended its ECOM docket because "[t]he USPS had clearly and consistently refused to provide the Commission any information on any substantive issue in the remanded ECOM docket." *See United States of America v. United States Postal Service*, Dec. 30, 1981, p. 9.

[1] This conclusion is consistent with the recommendations of the Department of Justice and the Council on Wage and Price Stability. *See* U.S. Department of Justice, *op. cit.*, and Comments of the Council on Wage and Price Stability, *op. cit.*. The need for such an investigation is particularly compelling considering that the USPS is the second largest U.S. utility after AT&T and the largest commercial undertaking in which the federal government is currently engaged.

[2] I would suggest, as a matter of fact, that the USPS enlist the aid of numerous experts in the field in setting up its study methodology -- including those in the private commercial sector, those at universities and at public policy centers, and even those at other government agencies.

monopoly, I would urge Congress to repeal the private express statutes.

Effects of Repealing the Private Express Statutes

Let me now address, in a preliminary way, the likely effects of repealing the private express statutes. Such a repeal could have a dramatic effect on the market for first-class mail. As new firms enter the market, the existing uniform rate structure would tumble. Although the Postal Reorganization Act of 1970 prohibits cross-subsidization of mail across classes, it does not prohibit it within a class. For example, because the USPS charges different first-class mail customers the same rate, even though the costs of serving those customers differ, some first-class mail is overpriced and thus subsidizes other first-class mail. In fact, the USPS has stated that

> if the Private Express Statutes were repealed, private enterprise, unlike the Postal Service, would be free to move into the most economically attractive markets while avoiding markets that are less attractive from a business standpoint.[1]

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[1] U.S. Postal Service, Statutes Restricting Private Carriage of Mail and their Administration (H. Comm. on Post Office & Civil Serv., 93d Cong., 1st Sess., Comm. Print 1973) p.6.

The USPS refers to this form of competition as "cream-skimming."[1] But despite its pejorative connotation, "cream skimming" is generally beneficial. The ability of a new market entrant to provide a service at a price lower than the current charge generally indicates that the current price exceeds the cost of providing the service. Since economic efficiency normally requires that a product's price be equal to the marginal cost incurred in producing it,[2] the existence of "cream-skimming" opportunities suggests that current USPS pricing misallocates resources. Repeal of the private express statutes could help end this inefficiency.[3]

A category of first-class mail that could arguably be charged a lower rate of postage is transaction mail, which constitutes a significant portion of first-class mail. This mail, which consists mostly of bills, bank statements and so forth, tends to be generated by a few, high-volume local business mailers (e.g., banks, utilities, and department stores) and their customers and to be delivered in high-density areas. The delivery of this mail, which bears typed addresses, is less expensive than delivering a letter addressed by hand (of equal weight) over long distances between non-urban points. Yet, both types of mail currently are charged the same postage. In a competitive market for first-class mail, consumers who use lower-cost mail services would benefit from lower rates for those services.[1] Such differential rates would allow resources to flow to their optimal use.[2]

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[1] Ibid., p. 5.

[2] See F.M. Scherer, op. cit., pp. 12-21.

[3] Variation of first class postal rates, as would be expected if the private express statutes are repealed, is not without precedent in this country. A uniform rate was not introduced until 1863. See Leonard Waverman, "Pricing Principles: How Should Postal Rates Be Set?" in Sherman (ed.), Perspectives, op. cit., pp. 9-10.

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[1] An efficient allocation of resources does not necessarily require each item of mail to have a different rate. The cost of the pricing system itself--both to suppliers and customers -- must be considered when determining the set of prices that will maximize welfare. Yet, because there appear to be significant cost differences related to delivering some mail, and a slight variation from the present uniform rate structure would not be expected to be too complex or costly to maintain, it is possible that repeal of the private express statutes would lead to some variation.

[2] Any premium currently paid by some first class mailers above the cost of that service is of concern not only because of the direct effect such rates have on these users, but also because business mailers can be expected to pass excessive postal costs on to their customers in the form of higher prices for their products. Thus, there may also be a significant indirect effect. In addition, just as underpriced mail will be overused, overpriced mail will be underused and will (inefficiently) divert resources to competing information transfer systems.

Repeal of the private express statutes is also likely to reduce the transfer of income that is an implicit part of the current uniform rate structure. For example, when rates are uniform, non-urban long-distance first-class users seem to benefit at the expense of intra-city first-class users. Under a competitive regime, however, one group of users would not be forced to subsidize another group of users. Nor, for that matter, could businesses be subsidized by any relatively underpriced second-, third-, or fourth-class mail. Instead, each type of mail would be expected to pay its own way.[1]

Repeal of the private express statutes could result in relatively higher rates and/or reduced service for some postal users just as it would likely result in lower rates and/or improved service for others. But any shifting of relative rates and service would simply ensure that postal service prices reflect the costs of providing them. For society as a whole, such changes would bring about a more efficient allocation of resources. If it were felt that a particular type of mail, such as rural delivery, should have its price discounted or its service raised, then Congress could grant an explicit subsidy to the users of that type of mail. An explicit subsidy of that sort would likely fully maintain current services at less cost than the present structure entails. The decision to allocate such a subsidy properly belongs to Congress.[1]

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[1] It should be stressed that lower rates for business mailers would redound to the benefit of consumers of those businesses, as the savings in costs would be passed along.

Fears of significant reductions in rural service as a result of repealing the private express statutes are largely unfounded. When regulation of the interstate trucking industry was relaxed, for instance, service to small rural communities was not abandoned, despite similar fears. The Interstate Commerce Commission found that during the first six months following passage of the Motor Carrier Act of 1980 (MCA) both motor carrier service availability and quality were, for the most part, unchanged in small rural communities.[2] Moreover, even if repeal of the private express statutes did lead to the closing of some rural postal offices, it is extremely unlikely that postal services would ever be ended in those areas. More likely, mail delivery in rural areas would continue but residents would have to travel farther to purchase stamps and to undertake other transactions at a post office.[1]

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[1] In the mid-1970's it was estimated that if there were no charge at all for rural mail delivery, the out-of-pocket cost to the USPS would be less than $600 million a year, or about 5% of the USPS's total costs. See generally Hearings Before the House Postal Facilities Subcom. on New Criteria for Small Post Office Closings, 94th Cong., 1st Sess. 17 (1975); Briefing by the Postmaster General for the House Post Office and Civil Service Committee, 94th Cong., 1st Sess. 11 (1975). Since this figure was less than one half of the excess revenue that was thought to be generated by first class mail at that time, the current pricing system would appear to subsidize some non-rural mail users as well. See U.S. Department of Justice, op. cit., p. 15.

[2] Interstate Commerce Commission, Office of Policy and Analysis, Interim Report: Small Community Service Study, June 1981.

Repeal of the private express statutes might also reduce first-class postage relative to other classes if revenue from first-class mail is in fact presently used to subsidize other mail classes -- an issue of some contention among the experts.[2] If so, and if the private express laws were repealed, entering firms would likely compete away most or all of any excess revenue that first-class mail earns, eliminating (or at least reducing) USPS' potential to use those earnings to subsidize other classes of mail. Thus, if such cross-subsidization does presently occur, repeal of the private express statutes would likely lead to lower rates for first-class mail relative to other classes of mail. Such a reduction in first-class rates, and an increase in other rates, would bring postal prices more in line with the marginal costs of providing each service, thus leading to enhanced consumer welfare via a more efficient allocation of resources.

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[1] See Waverman, op. cit., p. 17. If this were considered contrary to the public interest, it would seem more efficient and equitable for Congress to provide a direct subsidy to address the problem.

[2] The relatively inelastic demand for first-class mail and the postal monopoly may give the USPS the ability to use this mail to subsidize other classes.

Cross-Subsidization and Its Effects

Although the Postal Reorganization Act of 1970 prohibits subsidization across classes of mail, it has been alleged that the USPS' approach to costing and pricing leads to such cross-subsidization (perhaps unintentionally) and the concomitant inefficiencies associated with it. For example, the chief administrative law judge in U.S. Postal Rate Commission Docket R74-1 (vol. 1, p. 13) concluded that

> the Postal Service has become a tax-collecting agency collecting money from first-class mailers to distribute to other favored classes. Every time a person pays 10 cents to mail a first-class letter he is paying his appropriate attributable cost plus his proportionate share of residual cost, and in addition, he is contributing almost 2 cents to pay the costs of other services.[1]

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[1] The USPS' recent decision to raise first-class letter rates from 15 cents to 20 cents, rather than to 18 cents as the PRC recommended, does little to dispel this criticism. This 33 1/3 percent increase, which only came about because the USPS Board of Governors unanimously voted to overturn the PRC's recommendation, far exceeded other rate increases. In fact, the USPS actually reduced some other rates at the same time that it was increasing the rate on first-class letters.

Those who allege the existence of such cross-subsidization typically argue that it results from the PRC's effort to "attribute" and "assign" USPS costs to the various classes of mail and from the discretionary manner in which the remaining USPS costs are allocated. The USPS and PRC themselves have disagreed over how the USPS' costs should be allocated, with the former favoring a larger discretionary percentage than the latter. For example, in the most recent rate case the PRC felt that 73.6 percent of USPS' costs were attributable or assignable, while the USPS felt that only 59.3 percent of its costs should be so allocated.[1] This disagreement has reached the courts. An appeals court in Washington, D.C., believes that the PRC should allocate costs to the maximum extent possible based upon actual expenses, while an appeals court in New York has stated that the PRC could determine its rates half through allocation and half through other factors (*i.e.*, by discretion).[2] As you know, the U.S. Supreme Court recently agreed to settle this dispute.[1]

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[1] *See* U.S. PRC Opinion and Recommended Decision, Docket No. R80-1, vol. 1, pp.5-7.

[2] While less than 50 percent of costs were so allocated in the first rate case, by the 1976 case the percentage had risen to about 60 percent and in the 1977 case it exceeded 70 percent. *See* Sherman and Miller, *op. cit.*, pp. 59-60.

One possible cause of the wide disagreement over correct pricing of USPS services is the difficulty inherent in determining appropriate prices when the same enterprise provides a variety of services, as with the USPS. The presence of common and joint costs (i.e. costs relating to the provision of two or more classes of mail service), which account for a large percentage of total USPS costs, greatly complicates the setting of rates. Any attempt to separate or allocate common or joint costs must be somewhat arbitrary and may not lead to optimal pricing of the various classes of mail service.[2]

The validity of allegations that costs are or are not correctly allocated would be clearer if the USPS were to make more of its data available for public scrutiny, as I recommended earlier. Since the issue of pricing is very complex and there is such a lack of agreement as to how it should be performed in the postal area, there is need for additional study. However, the current dearth of good, publicly-available data poses serious obstacles to any such endeavors.

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[1] See Wall St. J., op. cit., April 20, 1982, p. 12.

[2] See Melvyn A. Fuss, "Cost Allocation: How Can the Costs of Postal Services Be Determined," in Sherman (ed.), Perspectives, op. cit., pp. 30-46.

E-Com and Its Effect on Private Electronic Message Services

Finally, I would like to make a few comments about the Postal Service's provision of electronic message services. As you are aware, Postal Service involvement in electronic message services, particularly its recently-operational E-COM system, has been quite controversial and the subject of numerous administrative and judicial proceedings. The fundamental issue is whether there is a need for the USPS to provide such services.

Once again, our basic presumption is that goods and services are best and most efficiently provided by independent firms operating in open and competitive markets. Government intervention generally is justified only by market failure. It is against this principle that USPS activities should be measured.

The Postal Service's present service, E-COM, is a blend of modern telecommunications and the traditional hand delivery of mail. As a so-called "Generation II" service,[1] E-COM involves the use of common carrier telecommunications to send messages in electronic form to a receiving post office where they are printed, stuffed into envelopes, and placed into the first-class mail stream. While Postal Service delivery of the stuffed envelopes seems clearly within its traditional role, telecommunications and data processing are not. This new role is especially difficult to justify in view of the desire and ability of private firms to provide such services.

The telecommunications and data processing service sectors today are characterized by rapid growth and innovation. Other changes in industry structure apparently on the way as a result of legislative and judicial actions are intended to increase still further the opportunity for competition and innovation. A wide range of information services are already being competitively offered. For example, Generation I and II services are being sold by Western Union, Tymnet, Graphnet, Southern Pacific, and Telepost among others.[2]

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[1] The so-called "Generation I" service involves a similar system, except the message input is originally in hard copy form and is converted to electronic form prior to transmission.

[2] Further, the early indication is that E-COM is not attracting usage at anywhere near projected levels. According (CONTINUED)

A short step away from the present service is the so-called "Generation III" service, which involves direct electronic messages from sender to recipient. This service is already being sold by a large number of firms, including AT&T, GTE-Telenet, General Electric, Tymnet, and a host of computer services firms. Since it does not involve physical delivery of hard copy, it cannot reasonably be argued that a Generation III service is simply the traditional postal mission by more modern means. Nonetheless, private businesses perceive the Postal Service as ready to offer this type of service[1] Since the Postal Service has no apparent justification for such activities, I support the recommendations contained in the 1979 Presidential Review Memorandum on Postal Service Involvement in Electronic Mail Offerings that the Postal Service be prevented

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(FOOTNOTE CONTINUED)

to one source, the reason is that the system is poorly designed to meet user needs. "The Post Office's Electronic Turkey," Business Week, March 29, 1982, p. 35.

[1] See, e.g., "Government Provision of Electronic Message Services," Position Paper of the Association of Data Processing Service Organizations, Inc., (ADAPSO), February 16, 1982, at 16.

from offering end-to-end links or from building its own transmission network.[1]

A related, albeit secondary, issue is the manner in which the Postal Service prices its electronic services. Although cross-subsidization is ostensibly prohibited, there is a concern that the Postal Service will, nonetheless, cross-subsidize its electronic services.[2] These concerns are fueled by the fact that E-COM fees are set at the level recommended over two years ago when the system's capital costs were estimated to be $7.4 million, although its subsequent contract with RCA calls for USPS expenditures of at least $38.6 million, a sum more than five times greater. Moreover, since the government stands behind it, it may not be reasonable to view the Postal Service as just another competitor in a competitive market, even if it does price to cover its costs. Congress has required, for example, that the Federal Reserve not only charge fees for its commercial services to fully cover costs but also that it add an adjustment to cover imputed taxes, profits, cost of capital, and the like.[3] If the Postal Service continues to offer electronic services, such a requirement for E-COM might at least make competition with the private sector more equal.

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[1] 44 Fed. Reg. 438929-30.

[2] See, e.g., ADAPSO, supra, n. 3, at 19-22.

[3] Monetary Control Act of 1980, Title I, Public Law 96-221, March 21, 1980.

Conclusion

Allow me to sum up now by stating a few recommendations regarding the Postal Service issues previously touched upon, and to provide a "blueprint" of further options that the Congress may want to consider. I would like to make it clear that these proposals, and this discussion, are by no means anti-USPS. I fully realize that the men and women of the Postal Service perform valuable jobs. My theme, instead, is that opposing change and ignoring economic realities in the postal realm would not serve consumers nor the long-range interests of the USPS itself.

First of all, it's absolutely clear that even if nothing else is done, the USPS should bear the burden of demonstrating -- if it can -- that first-class mail service is indeed a natural monopoly in need of legal protection prohibiting competitive entry. In order to go about this task, Congress could require the USPS to conduct a thorough analysis of this matter subject to full outside review of the study plan, data, and analysis. The mandate for this empirical study should be broad, covering not only the concerns mentioned earlier, but others, such as why first-class mail is presumed to be a natural monopoly even though second-, third-, and fourth-class are not. Moreover, alternative ways of restructuring mail service (such as devising more appropriate mail categories as the result of a functional analysis of the mail) should not be overlooked.

Even if such a study affirms the existence of a natural monopoly in first-class mail, Congress could consider other actions to increase the accountability of the USPS and to protect the interests of consumers. I have three specific ideas in mind here, although there may well be other possibilities. First, Congress could restrict the ability of the USPS to set the bounds of its own monopoly by either statutorily defining "letter," or by providing increased oversight of USPS decisions concerning their definitions.

Second, Congress could strengthen the power of the PRC to provide a truly vigorous and independent check on decisions by the USPS and its Board of Governors. I should tell you, frankly, that I have doubts about the ability of any regulator to do a perfect job. But if the PRC were given very direct guidelines as well as requisite authority (e.g., powers to initiate rate cases and to subpoena information), I think the situation could be improved. In sum, consideration could be given to whether the PRC has enough power, the right tools, and the proper enthusiasm for overseeing the vast operations of the USPS.[1]

Third, Congress could limit the USPS' ability to enter new fields of service (such as the E-COM program) without PRC approval and/or Congressional authorization. The expansion of USPS activities in direct competition with the private sector when there is no compelling need for such expansion should not be countenanced. Moreover, in the interests of promoting competition and protecting the consumer, I see little reason for ever granting USPS a legal monoploy in such new types of service unless it is able to provide compelling evidence why such a monopoly would be in the public interest.

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[1] Two especially striking anomalies about the PRC's current status are worth mentioning. First, as Roger Sherman testified, although many of the relevant issues confronting the postal domain need sophisticated economic analysis, "...there is no Chief Economist at the Postal Rate Commission, and no extensive capacity to conduct economic analysis." (Sherman Statement Before the Postal Operations and Service Subcommittee and the Postal Personnel and Moderization Subcomittee of the Committee on Post Office and Civil Service, United States House of Representatives, March 18, 1982, p.6). Second, as the U.S. Justice Department study, op. cit., pointed out at p. 23: "The PRC is the only regulatory body whose annual budget derives from and is reviewed by the entity that it regulates (with the exception of the Ohio State Utilities Commission)."

There are, of course, more extensive changes that the Congress could consider. Although I think any decision on these further measures should be deferred pending completion of the study mentioned earlier, the most obvious possibility would be to repeal the private express statutes.

As described above, this move would likely have several effects. First, it would eliminate the problem of interclass cross-subsidies (*i.e.*, from first-class to other classes), since the USPS would no longer have the capability of charging well above costs without losing first-class mail business to the new competitors. Second, the new competition would likely drive the cost of first-class mail down relative to other classes of mail, to the benefit of consumers. Third, rural users might have to pay somewhat more for somewhat less service relative to other users of first-class mail, unless Congress chose to subsidize rural mail service directly. A direct subsidy would likely cost less than the present hidden one. Finally, repealing the private express statutes would essentially force the USPS to reform its rate structure and improve its operations or go out of business.[1]

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Mr. Chairman and Members of the Committee, this concludes my prepared statement. I would be happy to respond to any questions you might have.

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[1] An even more extensive change would be to deregulate postal service totally by spinning the USPS off into the private sector, with no government link and no statutory barriers to competition. Such a move would have the advantages of ending all governmentally-induced inefficiencies in costs and in pricing. Of course, such an action should not be adopted precipitously.

Senator SYMMS. Thank you very much for a very excellent statement, Mr. Miller. I think that that will be very helpful to us. I was particularly interested in your statement about the burden of proof lying with those who want to keep the monopoly as opposed to those who want to repeal the monopoly.

I was quite interested that Senator Goldwater's statement takes the opposite point of view that you have taken on that. He thinks the burden of proof lies with those who wish to modernize the first-class statute monopoly.

We submitted his statement earlier this morning. The Postmaster General, Mr. Bolger, in his very helpful testimony this morning stated the Postal Service does not want to enter Generation III service.

Can the Postal Service avoid further E-COM involvement, considering the fact that business mail makes up over 80 percent of its first-class volume?

What I'm getting at is how are they going to avoid further involvement—I mean they don't want to get into that business and Mr. Bolger thinks the Generation III service should stay in the private sector.

But he doesn't think that it is going to mean that there still won't be more letters to carry and an opportunity for them to have plenty of business to keep afloat.

How would you view that? How are they going to avoid getting into that if they are going to stay in business?

Mr. MILLER. An interesting point is that here we have an industry in which there is beginning to be rapid technological change, and any industry either has to keep up with technological change or else suppress it. And suppressing it I think generates substantial costs to consumers. Whether Generation III or other E-COM-type operations would supplant the traditional volume of letter-type first-class mail, I don't know. I have seen estimates pro and con. I don't feel sufficiently knowledgeable of that particular point, though, Senator, to give you a definitive answer.

Senator SYMMS. Mr. Murphy of the Civil Aeronautics Board testified this morning concerning the deregulation of airlines.

Would you think that the airlines could be a valid model for the deregulation of the private express statute?

Mr. MILLER. In a way—not only the airlines but the trucking industry.

Senator SYMMS. What are the strengths and weaknesses of those two models?

Mr. MILLER. In both cases, it was alleged that smaller communities would have a disappearance of services if there were deregulation. Now, frankly, especially with the effects of the rapid rise in the price of jet fuel, there has been some diminution in the service—airline service—to local communities. But this was predictable given the circumstances, it seems to me.

Senator SYMMS. On that point, though, if it weren't for the flexibility that we now have in the airlines, do you think the CAB would have been able to respond rapidly enough to keep several of the airlines? We might have more than Braniff close down.

Mr. MILLER. That's a very good point because frankly if it were not for the flexibility of moving in and also the flexibility of moving out, doubtless we wouldn't have had as many new airlines starting up this local kind of service. Interestingly, the restraint on moving out on the airlines was also a restraint on moving in because you didn't want to get into a market unless you knew you could get out if your test did not work out.

By increasing the risk of substantial loss, a barrier on exiting was a costly obstacle to entering service.

In the case of the trucking industry, it was alleged with trucking deregulation, small communities would lose trucking services. But the Interstate Commerce Commission's own studies of the effects of trucking deregulation show that small communities' services have not been impaired to small communities.

And in both cases we heard, I think, the argument that if it ain't broke, don't fix it. Essentially that is another way of saying the burden should be on the people who would propose deregulating those industries.

Here, I do very respectfully disagree with Senator Goldwater. Especially in these modern times with all the evidence of how well competitive services could be provided, I think the burden should be on those who want to maintain the private express statutes.

Senator **Symms**. I think that's an excellent point and I hope that you are heard more on this issue, and I hope the news media recognizes that burden of proof.

I'm happy to have your testimony. It was an excellent statement.

Thank you so much, Mr. Miller. It was nice to have you here before the subcommittee.

Mr. **Miller**. Thank you, sir.

Senator **Symms**. The next panel is Professor Adie, economist, University of Ohio; Professor Jeffrey Perloff, economist, University of California; and Mr. David Boodman, vice president of Arthur D. Little.

In view of the fact that Professor Adie has an aircraft to catch at 3:15, I think we ought to let him testify first.

Where's that—National Airport?

Mr. **Adie**. Yes.

Senator **Symms**. You shouldn't have any trouble if you leave here at 2:30. You should be all right.

So please go right ahead.

STATEMENT OF DOUGLES K. ADIE, PROFESSOR OF ECONOMICS, OHIO UNIVERSITY, ATHENS, OHIO

Mr. **Adie**. Senator Symms, members of the subcommittee, I want to thank you for the invitation to testify before you today.

My name is Douglas Adie, I am a professor of economics at Ohio University in Athens, Ohio, which is a small university town in the foothills of Appalachia. I'm also a George C. Bennett Professor of Economics at Wheaton College, Wheaton, Ill.

I'm the author of a book on the Postal Service wage rates published by American Enterprise Institute and an updated paper also published in a series of papers by the American Enterprise Institute.

As an economist I am concerned that the information that has been obtained on the Postal Service be disseminated. As a private person I am outraged at the legalized exploitation of the public by the

Postal Service on behalf of its workers. Let me hasten to add that as a private postal customer I still receive good postal service, and I hope after my testimony I continue to.

My testimony will be in three areas: On wage levels, the wage schedule and efficiency in the Postal Service, and 11 modest proposals.

First, with respect to Postal Service wage levels. The Postal Service is a $24 billion-per-year operation, 85 percent of which goes to pay the wages, salary, and benefits of some 650,000 employees.

This works out to an average of roughly $31,000 per year per employee for wages and benefits. A number of economists, including Sharon Smith, Jeffrey Pereloff, and myself have studied wages of Postal Service employees. Sharon Smith compared what workers of similar skills and characteristics received inside and outside the Postal Service, Jeffrey Perloff performed similar comparisons with workers in the Postal Service and workers in other industries, and I have compared wages that Postal Service workers receive with what the Postal Service would need to pay to be able to adequately staff its positions. And I analyzed the quit-rates in doing this.

The outstanding uniformity of conclusions from these studies using diverse data and techniques cannot be ignored. Sharon Smith's results for the late 1970's indicate the Postal Service workers are overpaid by about one-third. My results for 1972 indicate that wages of Postal Service employees were in excess of between 33 and 48 percent.

More recently Jeff Perloff, whom I think you will hear from later, using regressions for employees with given levels of skill and education, show that Postal Service workers get over 33 percent more than they would get elsewhere.

This wage premium is simply a reward for managing to secure a job in the Postal Service rather than another industry. Perloff has suggested that this premium has risen from 29 percent in 1970 to 49 percent in 1980.

Wages, salaries, and benefits in the Postal Service are excessive in relation to personal characteristics of workers, pay in other industries, and the wage level necessary to attract and maintain a competent work force. This differential may be nearing a danger point in a recession economy and is capable of triggering a public reaction.

With respect to the wage schedule and efficiency of postal operations, a wage scale can provide an important incentive in a large enterprise, encouraging them to work harder and learn new jobs in the hope of promotion, as long as more difficult jobs are differentiated by higher pay.

Unfortunately, this is not the objective of Postal Service wage scale. The Postal Service wage scale is composed of 11 levels, each having 10 to 12 steps. Each occupation is assigned to a level depending on the degree of difficulty and responsibility.

Unfortunately, the pay range over these levels has been compressed from 68 to 30 percent, decreasing the incentive to aspire to more difficult occupations. In each level higher steps are attained solely through seniority. As a result of reorganization, the time required to reach the top step was shortened from 21 years to 8 years, indicating annual pay raises from seniority of approximately 3-percent-per-year for the first 8 years of employment.

If a postal worker opts for a new occupational category with a higher level before progressing through too many steps in the formal level, he would get a wage increase. In a relatively short time, however, because of step increases, postal workers can be earning more than the beginning salary of a job two or three levels higher, and so have little incentive to seek a promotion.

If a postal worker has the good fortune of having his occupation reclassified to a higher level—as most workers did on October 7, 1967—he will receive a pay increase.

This phenomenon, which consists of raising the pay level of a particular job without upgrading the responsibilities, is common in the Federal civil service and is called grade creep. There is little or no wage distinction or possibility of promotion within an occupation to differentiate more difficult assignments or higher degrees of skill, because all the jobs within a craft are salaries at the same level. Neither is there any practical financial incentive to improve efficiency on the job. Only seniority yields better working conditions, preferable tours of duty, and step increases.

This arrangement discourages employees from volunteering for more responsible positions. In fact, within a job at a particular level, employees often bid off successive assignments until they reach the easiest assignment for which they are eligible.

While the vast majority of American workers do not have cost-of-living provisions in their work contracts, postal workers receive automatic cost-of-living adjustments or COLA wages increases, when the consumer price index increases.

Additional compensation through the use of paid and unpaid absences and the use of overtime—which are related—the General Accounting Office found in three large post offices that time away from work averaged 50 days per employee per year, 40 of which were paid, 10 unpaid.

Employees can earn up to 26 days of annual leave per year based on years of service; 270,000 employees earn 20 days, 230,000 earn 26 days.

The Postal Service uses overtime to cover fluctuations in workload and to replace absent employees. Employee absences have a cost in salary for earned leave taken and in overtime to replace absent employees.

Collective bargaining agreements provide employees with rights to use annual leave, but 20 percent of total absences were unscheduled and not being monitored by management. These unauthorized or improper use of absences constitute uncontrolled wage increases for employees being paid for absences and overtime paid for those filling in.

Finally, postal employees receive increases when there's a general across-the-board increase due to collective bargaining.

To summarize the wage schedule, there are seven ways a postal employee can receive wage increases, namely, through promotion to higher levels—grade creep—step changes, costs-of-living adjustments, paid leaves, overtime, and bargain schedule increases.

Two things can be learned from an examination of the wage system: First, there are so many ways workers can receive increases that control over wages is practically impossible.

Second, the system is devoid of any incentive to the efficient use of labor. In the place of a wage incentive system, the Postal Service is designed to run in a mechanical way, according to the Postal Manual.

The manual defines relationships, procedures, and attitudes; and confers authority to organization of units to perform the duties and responsibilities assigned to them.

It's a self-contained guide containing all foreseeable contingencies. Nothing is to be done without specific authority; any deviation from the manual ordered verbally must be confirmed by a written order.

Positions are standardized, initiative is not encouraged nor effort rewarded. The work environment is impersonal.

Inequities exist between regular employees and temporary or substitute employees, between big city and rural employees, and between demanding occupations such as complicated steam clerks and other less demanding skills. First, regular employees have been successful in enhancing their jobs at the expense of temporaries or substitutes, which are given the most disagreeable work. This situation works like initiation ordeal and mitigates efficient operations, in addition to being unfair. Elimination of these classifications by reducing the job security of regulars and utilizing temporaries and substitutes, when their use proves more efficient, would be a good beginning.

With now regional differentiation, postal employees in high-cost-of-living areas in big cities, where market conditions suggest higher wages, receive the same compensation as those in small towns and other rural low cost-of-living areas, where market conditions suggest lower wages.

Finally, distribution clerks with complicated schemes have difficult jobs and may not be compensated adequately, whereas most unskilled jobs are more than adequately compensated.

The only source of discipline for the Postal Service at present is the Postal Rate Commission, and their power has been severely limited by two provisions. First, the assignment of responsibility for rates only has led them into a preoccupation with the assignment of rates for different types of mail based on costs and has clouded the more important issues of overall efficiency and optimal wages.

Second, the acceleration of the ratemaking process which imposed a 10-month limit on rate deliberations by the Postal Rate Commission has a provision that the Postal Service put temporary rates into effect without Postal Rate approval for up to 150 days. This removed the Postal Service from the discipline of the Postal Rate Commission.

The Postal Service is a bureaucracy under no one's control. It pays its employees whatever it will and may pile up unlimited debt. In a search for a source of discipline for the Postal Service, Congress gave up trying to handle wage and ratemaking in the reorganization. The Postal Rate Commission has failed because they lack any real power. The courts have failed because they're not equipped for making business decisions. Only the market, as represented by the repeal of private express statutes, has not been tried. And this is the only viable policy alternative, unless ultimate folly is committed and electronic transfers are placed under the statutes.

It's a matter of time before the electronic revolution diverts first-class traffic from the Postal Service. More and more bills and payments of bills will be shifted to computers connected by telecommunications. Home computers with print capability connected by telephone will divert first-class mail. Ever-increasing postal rates and widespread availability of lower-cost technological alternatives will divert business from the Postal Service. If this is not reversed, we may experience salvation from the Postal Service problem.

However confident of the ultimate outcome, instead of waiting for the situation in the interim to worsen, events to overtake us, and much folly to be perpetrated, I would propose that a series of actions be taken which will lead to the repeal of the private express statutes and denationalization of smaller, specialized and more streamlined Postal Service which would occupy a useful place in the private sector.

I recommend the following 11 proposals:

One, increase the interim surveillance powers of the Postal Rate Commission;

Two, eliminate the Postal Service's rate to borrow through the Treasury;

Three, eliminate the Postal Service right of eminent domain;

Four, prohibit the Postal Service's entrance into electronic transfers until after denationalization, but encourage the provision of auxiliary services to other communications companies;

Five, reduce service to 5 days a week;

Six, close inefficient post offices;

Seven, encourage the Postal Service to contract for services with private companies when costs can be reduced;

Eight, repeal the private express statutes;

Nine, phase out congressional appropriations;

Ten, phase in taxes at all levels;

Eleven, denationalize the Postal Service and eliminate the Postal Rate Commission.

Thank you very much.

[The prepared statement of Mr. Adie follows:]

PREPARED STATEMENT OF DOUGLAS K. ADIE[1]

Senator Symms, Members of the Subcommittee and staff: thank-you for the invitation to testify before you today. My name is Douglas Adie. I am professor of Economics at Ohio University, Athens Ohio and George C. Bennett Professor of Economics at Wheaton College, Wheaton Illinois. I am the author of a book entitled An Evaluation of Postal Service Wage Rates published by the American Enterprise Institute and a more recent paper also published by the American Enterprise Institute entitled, "How Have Postal Workers Fared Since The 1970 Act?" I am currently working on a monograph with James Campbell for the CATO Institute entitled "An Evaluation of the Idea of a National Post Office and National Postal Monopoly."

As an economist I am concerned that information that has been obtained on the Postal Service sometimes with difficulty be disseminated and taken into account in the formulation of Postal policy. As a private person I am outraged at the legalized exploitation of the public by the Postal Service on behalf of its workers. Let me hasten to add that as a private postal customer I still receive good local postal service and hope that it continues. My testimony will be in three areas:

1. Wage Levels
2. The Wage Schedule and Efficiency
3. Eleven Modest Proposals.

In the first section I will evaluate the average level and trend of wages in the Postal Service on the basis of current research, including my own. In the second section I analyse the wage schedule, the seven ways postal employees can receive wage increases and the incentives or lack thereof for the efficient use of labor services. In the final section I make eleven "modest proposals" for reforming the Postal Service. These are eleven issues that need to be faced in taking the Postal Service from the government run monopoly that it was under the Post Office Department to a private profit-making business functioning independently in a competitive economy without special privileges. I believe that changes in this direction are inevitable and will be better for taxpayers, the government, postal managers, postal workers, and postal customers; and so should be viewed positively by all parties concerned. It is then in this spirit that I give this testimony.

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[1] The views and opinions expressed here are those of the witness and do not necessarily reflect those of the institutions or individuals connected with the institutions with which the witness is affiliated.

The Postal Service is a $24 bil./yr. operation, 85% of which goes to pay the wages, salaries and benefits of some 650,000 employees. This works out to an average of over $31,000. (31,384.61) per year per employee for wages and benefits. A number of economists including Sharon Smith, Jeffrey Perloff and myself have studied wages of Postal Service employees. Sharon Smith compared what workers with similar skills and characteristics received inside and outside the Postal Service; Jeffrey Perloff performed similar comparisons with workers in the Postal Service and workers in other industries. By analysing quit rates I compared the wages that Postal Service workers received with what the Postal Service would need to pay to be able to adequately staff its positions.

The astounding uniformity of conclusions from these studies using diverse data and techniques cannot be ignored. Sharon Smith's results (the late 1970's) indicate that Postal Service workers were overpaid by about one-third. My results for 1972 indicate that wages of Postal Service employees were in excess of what the PS needs to pay by between 33 and 48 percent. More recently Jeff Perloff using regressions for employees with given levels of skill and education showed that Postal Service workers get over 33% more than they would get elsewhere. This wage premium is simply a reward for managing to secure a job in the Postal Service rather than another industry. Perloff suggests that this premium has risen from 29 percent in 1970 to 39 percent in 1980.

Wages, salaries and benefits in the Postal Service are excessive in relation to personal characteristics of workers, pay in other industries, and the wage level necessary to attract and maintain a competent work force. In a recession economy this differential may be nearing a danger point and is capable of triggering a public reaction.

II. The Wage Schedule and Efficiency of Postal Operations

By encouraging an employee to work harder and learn new jobs in the hope of promotion a wage scale can provide an important incentive for workers in a large enterprise as long as more difficult jobs are differentiated by higher pay. Unfortunately this is not the case with the Postal Service wage scale. The Postal Service wage scale is composed of eleven levels, each having 10 to 12 steps. Each occupation is assigned to a level depending on the degree of difficulty and responsibility.

Unfortunately the pay range over these levels has been compressed from 68 to 30 percent, decreasing the incentive to aspire to more difficult occupations. In each level, higher steps are attained solely through seniority. As a result of reorganization the time required to reach the top step was shortened from 21 years to 8 years, indicating annual pay raises from seniority of approximately 3 percent per year for the first 8 years of employment.

If a postal worker opts for a new occupational category with a higher level before progressing through too many steps in the former level he will get a wage increase. In a relatively short time, however, because of step increases postal workers can be earning more than the beginning salary of a job two or three levels higher and so have little incentive to seek a promotion. If a postal worker has the good fortune of having his occupation reclassified to a higher level as most workers did on Oct. 7, 1967, he will receive a pay increase. This phenomenon which consists of raising the pay level of a particular job without upgrading the responsibilities is common in the Federal Civil Service and is called "grade creep."

There is little or no wage distinction or possibility of promotion within an occupation to differentiate more difficult assignments or higher degrees of skill because all the jobs within a craft are salaried at the same level. Neither is there any practical financial incentive to improve efficiency on the job. Only seniority yields better working conditions, preferable tours of duty, and step increases.

This arrangement discourages employees from volunteering for more responsible positions. In fact, within a job at a particular level, employees often "bid off" successive assignments until they reach the easiest assignment for which they are eligible.

While the vast majority of American workers do not have cost-of-living provisions in their wage contracts, postal workers receive automatic cost of living adjustments or COLA wage increases when the consumer price index increases. Additional compensation is received through the use of paid or unpaid absences and the use of overtime which are related. The General Accounting Office found in 3 large post offices that time away from work averaged 50 days/employee/yr, 40 of which were paid; 10, unpaid. Employees can earn up to 26 days of annual leave per year based on years of service. 270,000 employees earn 20 days; 230,000 earn 26 days. The Postal Service uses overtime to cover fluctuations in workload and to replace absent employees. Absentee employees incur additional costs in salary for earned leave taken and in overtime to replace absentee employees. Collective bargaining agreements provide employees with rights to use annual leave but 20 percent of total absences were unscheduled and not even being monitored by management. These unauthorized or improper uses of absences constitutes uncontrolled wage increases for employees being paid for absences and overtime pay for those filling in.

Postal employees also receive increases when there is a general across the board pay increase due to collective bargaining. To summarize there are seven ways a postal employee can receive wage increases: namely, ^{1}promotions to higher levels, ^{2}"grade creep", ^{3}step changes, ^{4}COLA, ^{5}paid leaves, ^{6}overtime, and ^{7}bargained schedule increases. Two things can be learned from an examination of the wage system: first, the system is devoid of any incentive to use labor efficiently. Second, there are so many ways workers can receive increases that control over wages is practically impossible.

In the place of a wage incentive system the Postal Service is designed to run in a mechanical way according to the postal manual. The manual defines relationships, procedures, and attitudes and confers authority to organizational units to perform the duties and responsibilities assigned to them. It is a self-contained guide covering all foreseeable contingeneces. Nothing is to be done without specific authority. Any deviation from the manual ordered verbally must be confirmed by a written order. Positions are standardized; initiative is not encouraged nor effort rewarded; the work environment is impersonal.

Inequites exist between regular employees and temporary or substitute employees, between big city and rural employees and between demanding occupations such as complicated scheme clerks and other less demanding skills. First regular employees have been successful in enhancing their jobs at the expense of "temps" and "subs" which are given the most disagreeable work. This situation works like an initiation ordeal and mitigates against efficient operations in addition to being unfair. Elimination of these classifications by reducing the job security of regulars and utilizing temporaries and substitutes when their use proves more efficient should be encouraged.

With no regional differentiation, postal employees in high cost-of-living areas in big cities where market conditions suggest higher wages, receive the same compensation as those in small towns and other rural low cost-of-living areas where market conditions suggest lower wages. Finally distribution clerks with complicated schemes have difficult jobs and may not be compensated adequately whereas most unskilled jobs are more than adequately compensated.

What kind of encouragement can be given to the Postal Service to incline them to make hard decisions? What kind of discipline exists to make them pay for their mistakes and straighten out their house? This is a major problem.

The only source of discipline for the Postal Service at present is the Postal Rate Commission and their power has been severely limited by two provisions: first the assignment of responsibility for rates only has led them into a preoccupation with the assignment of rates for different types of mail based on costs, and has clouded the more important issues of overall efficiency and optimal wages: second, the acceleration of the rate-making process, which imposed a ten month limit on rate deliberations by the Postal Rate Commission had a provision that the Postal Service could put temporary rates into effect without Rate Commission approval for up to 150 days. This removed the Postal Service from the discipline of the Postal Rate Commission.

III. Summation Recommendations, and Eleven Modest Proposals

The Postal Service is a bureaucracy under no one's control. It pays its employees whatever it wills and may pile up debt without apparent limit. In the search for a source of discipline for the Postal Service, Congress gave up trying to handle wage and rate-making in the Reorganization; the Postal Rate Commission has failed because they lack any real power; the courts have failed because they are not equipped for making business decisions. Only the market as represented by repeal of the Private Express Statuteshas not been tried and this is the only viable policy alternative unless ultimate folly is committed and electronic transfers are placed under the statutes.

It is only a matter of time before the electronic revolution diverts first class traffic from the Postal Service. Home computers with print capability connected by telephone will divert first class mail. More and more bills and payments of bills will be shifted to computers connected by telecommunications. Increasing postal rates and the widespread availability of lower-cost technological alternatives will divert business from the Postal Service. If this process is not reversed and there is no reason now apparent that it will be, we will experience salvation from the Postal Service problem.

However, confident of the ultimate outcome instead of waiting for the situation in the interm to worsen, events to overtake us and much folly to be perpetrated, I would propose that a series of actions be taken which will lead to the repeal of the Private Express Statutes and denationalization of a smaller more efficient, specialized and streamlined Postal Service, which would occupy a useful place in the private sector.

In pursuit of this goal, I recommend the following proposals:

1. Increase the interim surveillance powers of the Postal Rate Commission.

Until Repeal and denationalization are completed there needs to be some discipline on the Postal Service to move it internally in the right direction. The Postal Rate Commission is the most likely candidate to do this.

2. Eliminate the Postal Service's right to borrow through the Treasury.

Up to the present the Postal Service has borrowed in excess of $5 bil. through the Treasury. This represents liabilities to U.S. taxpayers. This source of funds should be cut off immediately to make the discipline effective, to protect taxpayers and to put potential lenders on notice that the U.S. Treasury does not guarantee Postal Service debt instruments.

3. Eliminate the Postal Service's right of eminent domain.

This is an antiquated right which is not needed and should be terminated immediately.

4. Prohibit the Postal Service's entrance into electronic transfers until after denationalization, but encourage the provision of auxiliary services to other communications companies.

Extending the postal monopoly over electronic transfers would be disastrous for the communications business. Allowing the Postal Service to subsidize electronic transfers would slow down the growth of legitimate cost efficient firms in this area. Prohibiting the Postal Service from subsidizing electronic transfers while allowing them to provide the service would be impossible to adequately monitor and discipline under present circumstances.

The Postal Service, however, might provide a useful service if it acted as a clearinghouse between separate companies. After full denationalization however, it should be allowed to compete on any basis for any business.

5. Reduce service to 5 days a week and close inefficient post offices.

While these will undoubtedly be unpopular with many groups, ways must be found to reduce the size of the Postal Service, streamline its operations, and prepare it to show a profit.

6. Encourage the Postal Service to contract for services with private companies when costs can be reduced.

At present the Postal Service contracts with private carriers to transport mail, entrepreneurs to run postal stations and star carriers to deliver mail. This form of relationship should be considered at all levels and implemented when cost effective. It gives management more control over costs and operations.

7. Allow the Postal Service to retain profits and accumulate surpluses.

This is necessary to prepare for private ownership.

8. Repeal the Private Express Statutes.

This is the most important discipline to the efficient operation of the Postal Service, whether privately or publicly owned.

9. Phase out Congressional appropriations.

Plans for this have already been laid. The timetable needs to be followed.

10. Phase in taxes at all levels.

This is necessary for the Postal Service as an independent private corporation to compete on equal footings with other private corporations.

11. Denationalize the Postal Service and eliminate the Postal Rate Commission.

While not designed to be complete, nor to be followed in exact sequence these are I believe the major decisions that need to be made in reprivatizing the United States Postal Service.

Thank you again for the opportunity of addressing you.

Senator SYMMS. Thank you very much, Professor Adie.

I take it you are not—advocating 5-day mail service and closing private post offices, you don't have any intention in the near future to run for Congress in a rural area, I guess. [Laughter.]

Mr. ADIE. I most certainly do not have any intentions in that area.

Senator SYMMS. How are your comparisons on wages and benefits made, because you made some pretty strong statements there? You're not comparing apples and oranges, are you?

Mr. ADIE. Well, in my book, "An Evaluation of Postal Service Wage Rates," which looks at Postal Service wages in the 1960's and early 1970's, I base the analysis on a comparison of quit rates in the economy as a whole and in the Postal Service. And the analysis went briefly along the following lines: That quits represent a cost to the company. When its employees quit, it has to recruit new workers, has to train them, has to put them on the job, and it has to suffer through the initial less-than-acceptable work service, until they are ready to take their place as true employees, and that this cost should be important. And in the private economy, what happens is that wages are set primarily where the costs of recruiting and training and replacing workers is balanced with the increased costs of wages for the workers who are working.

In other words, by altering wages, they can actually control the quits. And in the Postal Service, we notice that quits are at extremely low levels, 1.1 to 1.8 percent a year. And if you take a look at regular employees, those that have the job security, the quit rate is even lower than that. And this is sort of the tipoff, the indicator. And on the other hand, when job vacancies are advertised, you get a literal flood of applications from over qualified people. And this is sort of the basic information——

Senator SYMMS. This morning Postmaster General Bolger testified. He made the statement—I don't know whether you were here—that today's pay scale is a result of artificially low wages in past years; and that they have only recently achieved parity with private sector counterparts.

Now what you're saying here is that that's not true.

Mr. ADIE. I'm saying that's not true. I'm saying as early as 1972, Postal Service wages were approximately one-third in excess, one-third above what they needed to be to staff their jobs adequately.

Senator SYMMS. One-third?

Mr. ADIE. One-third.

Senator SYMMS. Are you saying that is still the case?

Mr. ADIE. I think that has increased since then.

Senator SYMMS. Forty percent. What can be done to correct that lack of incentives and standardize bureaucracy in the Postal Service? Is it going to take more than just a little tinkering internally? When you say "denationalize it," I take it you mean open it up for competition?

Mr. ADIE. I'm not sure that it can be done. In fact, I don't think that increased efficiency in the management of personnel can be accomplished under the present motivational system. I just don't think that the incentive is there. There has certainly been sufficient length of time for this to take place, if there had really been a desire to do it. I think there needs to be some discipline which is brought to bear on the

Postal Service before it acts. Private businesses need the discipline of the marketplace before they are willing to make the kinds of hard decisions that need to be made. I think it's human nature that we don't like to make hard decisions when other people's welfare are at stake. And we'll do just about anything we can to keep from doing this.

I think that the Postal Service managers are humanitarian people, and they're not going to make the kind of decisions that will put their work force under pressure, unless they themselves are forced to do it.

Senator SYMMS. Thank you very much.

And looking at my watch, I think we better excuse you and let you head for the airport so you won't miss your plane.

Mr. ADIE. Thank you.

Senator SYMMS. Thank you for being here and giving your time. We appreciate your testimony.

Mr. Perloff and Mr. Boodman, we want to thank both of you for your patience. We will include your entire statement as part of the record, and if you want to summarize it partially, we will welcome that.

STATEMENT OF JEFFREY M. PERLOFF, PROFESSOR OF ECONOMICS, UNIVERSITY OF CALIFORNIA AT BERKELEY

Mr. PERLOFF. Thank you. My name is Jeff Perloff. By the way, for your records, that's spelled with a "J."

I want to report on some work that was done jointly with Michael Wachter of the University of Pennsylvania. I'm at the University of California at Berkeley. This report, however, represents my views and does not represent necessarily his views of the United States Postal Service, for whom we prepared a large part of this work for use in collective bargaining.

I have a prepared statement. Some of you in this room probably have copies. I apologize to those of you who do not.

I'd like to briefly summarize the key points in there. Very simply put, the key points are, there exists a wage premium of U.S. Postal Service wages above wages in other sectors, and that this has been growing substantially over time. Indeed, as Professor Adie mentioned—my results are very similar to those of Professor Adie, the work of Sharon Smith, of Joseph Quinn and Professor Borjas, and I believe these are absolutely universally found results by all economists who study this topic.

A second point I want to mention, however, is one of the reasons there is such a big markup is due to the fact that while other sectors of the economy discriminate substantially against nonwhites and women, the Post Office, essentially, has no discrimination. As a result, for those groups in particular, the markup is even greater, but all that markup is not harmful. That is, that which is due to the elimination of discrimination is presumably quite desirable.

The third point I want to mention, but since Professior Adie dealt with it, I'll skip it, if there has been substantial compression of wages due to COLAs, that is, wage differentials across skill levels have been shrinking over time.

Those of you who have my prepared statement, if you will look at table 1, what that shows is how average hourly earnings in the U.S. Post Office compares to other sectors of the economy. For example, that first entry there, 120 for 1961 for all industry, implies the wage in the Postal Service is 120 percent that of other sectors. That is, it was 20 percent higher than the rest of the economy. You'll notice by 1970, at the point of postal reorganization that differential had grown to 129—pardon me, the differential had grown to 29 percent, and by 1980, the differential had grown to 49 percent. So in other words, in the beginning of the 1960's, there's a 20-percent differential. It creeped up at about 1 percent a year until postal reorganization, and since then has been increasing roughly 2 percent a year until now the average wage in the post office is almost 50 percent higher than the average wage elsewhere, not controlling for skill levels. In other words, these are just the average earnings as reported by the Bureau of Labor Statistics.

Now it's quite possible some of this difference is due to a change in the quality level of the post office. For example, it seems quite clear that the average quality of postal workers has been rising over time, and there have been changes in other sectors as well.

Before leaving this table, I want to quickly note, however, that the post office's earnings, if you look in the 1980 column, are as high or higher than that of any other major sector in the economy. They're equal to that in construction, 36 percent more than in manufacturing, and 8 percent more than in mining. That's in the highly unionized sectors.

The post office is paying a higher average wage. Compared to other sectors, such as, say, the service sector, the markup is 70 percent higher, in trade, it's 81 percent higher. Finance, real estate, and insurance sectors, 72 percent higher.

The second table in my statement summarizes that same information graphically. As you can see, in the 1960's a couple of sectors had a higher wage than in the post office, namely, construction and mining, but by the 1980's, post office wages were as high or higher than any other sector.

If you turn to the third table, we also did a fairly quick comparison on Government pay, that is, the rest of the Federal Government compared to the post office. As an example, what we've shown there is a typical GS–5, step 4, that's Federal Government employee, compared to a PS–5, step 4, a roughly comparable postal employee. In the period 1971 to 1981, as you can see, the Government employee's wage increased by about $6,300, whereas the postal employee's wage increased by about $12,500. In other words, almost twice as much in a 10-year period.

An alternative way of trying to show that the Postal workers are very well paid, is to look how they behave themselves. Professor Adie has indicated, if Postal workers are paid extremely well, we wouldn't expect them to quit. If you look at our fourth table, what it shows is the quit rate in the U.S. Postal Service is much smaller than other governmental agencies and much smaller than in manufacturing. For example, in 1980, out of every 1,000 employees in the Postal Service, about 3 of them quit per month, as opposed to 15 in manufacturing, or five times as many. What that implies to me is that the Postal Service employees recognize that it's a very desirable job situation. Similarly, if you look in the newspaper, every few months you see a few openings in the Postal Service bring out literally thousands of people lining up to try to obtain these jobs.

If you will now turn to the fifth table in my statement, what I would like to do is talk about a different type of study we did. As your perceptive question of Professor Adie indicated, it's quite likely that some of the differences may be due to comparing apples and oranges. One of the reasons wages differ between the postal sector and other sectors is the skill levels in postal sectors, education, experience or geographic location, or what have you, may explain part of this difference.

As a result, we use statistical techniques based on 1978 data provided by the Federal Government in the current population survey to try to see how much of the difference in Postal Service wages remain after you control for obvious education experience and other such differentials. That is, how much would the same worker get in different sectors. If you look at that graph, what you will see is that the Postal Service employees, after controlling for all these differences, earn about 33.1 percent more than employees in the service sector as of 1978. In two other sectors, the Federal Government and mining, the markups are as high or higher, but in all other sectors, they're substantially lower.

Now I want to note that these numbers reflect full-time employees. In other words, if we had looked at the differential for all workers, these would be much larger. As you will note, except for mining, the postal markup is much larger than any other unionized sector, substantially larger than construction work, 24.4, durable manufacturing, 20.2. So after controlling as best we can for skill differentials, we still find a substantial markup in the Postal Service.

To give you an idea of what this means in dollars and cents, if you take a typical employee, such as your PS-5, step 4, last summer he earned around $21,746. That same employee, somebody with the same skill levels in construction, would have earned about $19,764, about $1,400 less. The same employee in nondurable manufacturing would have earned about $2,700 less or about $18,429. That same person in service would have earned about $52—$5,300 less or $15,887.

In other words, we're talking about fairly substantial amounts of money and very substantial wage differentials.

As I mentioned at the beginning, some of this difference is due to the lack of discrimination in the Postal Service. Roughly, 20 percent of Postal Service employees are blacks. In other words, a higher percent than the rest of the economy. One of the reasons for this is the Postal Service does not discriminate the way the other sectors do. According to our estimates, blacks or nonwhites earn 5.8 percent less in the economy as a whole than do their white counterparts. That is, the same people, same education, same experience, and so forth. In the Postal Service they earn the same amount. Similarly, an even larger markup exists for females in the other sectors. Pardon me, a negative markup. Females earn substantially less than males in the rest of the economy and earn roughly the same amount in the Postal Service.

As a result, if you look at these particular groups, you find a somewhat different pattern.

If you turn to table 6, what you will see is that the markup in the U.S. Postal Service over, say, the service industry for all workers, is 33 percent, whereas for females, it's 63 percent. In other words, females are earning 63 percent more than the rest of the economy. I would suggest some of that differential is due to pure markup, just due to the fact that the Post Office pays more than anybody else. Some is due to the elimination of discrimination. So, hence, I would not suggest it's harmful.

Thus, in quick summary, we believe using a number of different approaches, we have shown that the wages in the Postal Service are higher than the rest of the economy. That's been growing over time, and these differentials persist even if you make as tight a control for ability and other differentials as you possibly can. Thank you.

[The prepared statement of Mr. Perloff, together with attached tables, follows:]

Prepared Statement of Jeffrey M. Perloff[1]

The basic conclusion I draw from my research on wage comparability is that the U. S. Postal Service (USPS) pays more for a given quality of worker than do most other sectors of the economy and that the wage premium paid by the USPS has been growing rapidly over time. It should be noted, however, that unlike in many other sectors of the economy, there is virtually no wage discrimination on the basis of race in the USPS. Other studies such as those by Adie, Smith, and Borjas have produced very similar results.

This statement will first examine how USPS workers have fared relative to those elsewhere over time. Next, it will discuss how statistical techniques may be used to determine how wages differ across sectors after adjusting for skill variations across labor forces.

Wage Trends Over the Past Ten and Twenty Years

Not only does the USPS pay a higher wage than most major industries, but that wage premium has been growing over time, as shown in Table 1. Each entry in this table represents the ratio fo the USPS wage to the wage in a particular industry or the average across all industries times 100. That is, each entry represents the percentage markup of USPS wages to wages in other sectors. Since the table shows these ratios for 1961, 1965, 1970, 1975, and 1980, it is possible to trace the relative growth of the USPS markup over time.

The table indicates that the USPS has had significantly higher wage increases than the average across all private sectors since 1961. Moreover, the wage differential has increased over the past decade since the Postal Reorganization Act. For example, in 1961, the USPS paid a wage that was 20% higher than the average wage paid in the private economy, as shown by the figure in the top left hand corner of Table 1. By 1970, the wage premium had grown to 29%. This wage premium does not reflect possible changes in the skill mix and is only a division of the the average USPS wage by the averaghe wage paid in these industries. It is unlikely, however, that much of the growth observed in Table 1 could be accounted for by changes in the skill mix of various industries.

Of particular interest in Table 1 are the wage gains that have been made by the USPS since Postal Reorganization. The USPS's wage premium of 29% in 1970, increased to 49% in 1980: a 20 percent increase in relative wages over a ten year period. Similarly, the USPS's wage has grown faster than that of any industry from 1961 (Or 1965) to 1980. Both construction and mining paid more than the USPS in 1961, yet by 1980, the USPS wages were equal to those in construction and exceeded those in mining by 8%.

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* This statement on the comparability of wages in the U. S. Postal Service (USPS) and other sectors of the economy is based on joint research with Michael L. Wachter and which is discussed in a paper entitled "An Evaluation of U. S. Postal Service Wages" which was provided to the press. My views expressed here, however, do not necessarily represent those of anyone else.

In the other heavily unionized sector, manufacturing, the USPS's wage markup increased from 11% in 1961 to 36% in 1980. The markup over wages in the finance, insurance, and real estate sector, over the same period, went from 23% to a remarkable 72%.

Since the Reorganization in 1970, the USPS wage has grown as fast or faster than wages in each broad industry category except mining. Even given the remarkable growth of mining wages in the last decade, the USPS wage markup only fell from 9% in 1970 to 8% in 1980.

The same data are depicted in Table 2 in a bar diagram. The solid areas show the magnitude of the USPS wage premium: the larger the area, the higher is the USPS wage relative to the wage in the corresponding industry. The hatched areas indicate the degree by which USPS wages were less than wages in certain industries.

By 1980, there are no hatched areas, which shows that by then the USPS paid as much or more than any other broad industry category. Moreover, the solid areas increased in the 1970 diagram relative to the 1961 diagram and then again between 1980 and 1970. That is, the USPS's wage markup grew substantially over these periods.

Additional evidence of the recent gains made by the USPS's workers is shown in Table 3. That table indicates that the Federal government's GS-5, Step 4 wage rose $6,291 or 87.4% between 1970 and 1981. At the same time, however, wages at the PS-5, Step 4 level increased by $12,492 or 173.5%. Again, one must conclude that the USPS workers have done amazingly well since Postal Reorganization in 1970.

Wage comparability should not be based on a simple comparison of USPS wages and other unionized wages. Rather, the appropriate comparison is between the USPS and the entire American economy.

Looking at just the unionized sector (or even worse, a subset of the unionized sector) can be very misleading since thse sectors differ substantially from the USPS and the nonunionized private economy in a variety of ways. Most of the unionized firms are in three sectors: mining, manufacturing, and construction. None of these industries are similar to the USPS. Moreover, these industries are highly cyclical and seasonal in nature. Although they pay high wages, their work forces are frequently subject to either seasonal layoffs of long periods or cyclical layoffs during recessions. The result is that workers in these industries frequently do not receive the high union wage; rather they receive the relatively small unemployment insurance payments or, if they exhaust their unemployment insurance payments, they receive some form of public assistance. In contrast, in the USPS layoffs are nonexistent among full-time union members.

Another indication of the lack of direct comparability between the USPS and the unionized sector can be seen by comparing the quit rates. The quit rate is based on the number of workers who voluntarily leave their jobs per month for reasons other than retirement. A quit is an action initiated by the worker alone and should be differentiated from either a layoff or any other kind of involuntary separation.

The data indicate the the quit rate in the USPS is extraordinarily low relative to both the private sector and to the Federal government. For example, as shown in Table 4, in 1980 only 0.28 out of every 100 Postal Service workers quit per month. In contrast, in the durable goods manufacturing sector, 1.2 workers out of every 100 workers quit. In other words, approximately four times as many workers quit their jobs in the highly unionized, high wage, durable goods manufacturing industry as quit the USPS.

The quit rate is viewed by most economists as a highly reliable indicator of the attractiveness of a job. The USPS provides jobs that are extremely attractive. Once a worker is employed in the USPS, he or she simply does not quit. This unwillingness to leave is at variance with most of the rest of the economy. Supporting evidence of the attractiveness of USPS jobs appears frequently in the newspaper: when a job opening occurs in the USPS, large numbers of individuals line up to apply.

Wage Levels Across Industries, Adjusting for Skill Differences

There are many practical difficulties in comparing wages across industries. The USPS is not a typical employer since the occupational mix of the USPS is quite different than that of most other industries. For example, many of the jobs that exist in a steel plant or an automobile plant do not exist in the USPS. Similarly, few other firms use mail carriers or similar employees. As a result, we are forced to try to analyze the wages paid by different industries for workers who differ in terms of schooling, on-the-job training, the nature of the job they perform, the location of the employer, and any number of other factors.

One method which is widely used by economists to make wage comparisons across industries for a given type of worker uses a statistical technique called "multiple regression analysis." Regressions allow us to make valid interindustry comparisons since adjustments are made for the differences among individuals.

Michael Wachter and I made such a study based on the U. S. Bureau of Labor Statistics' May 1978 Current Population Survey (CPS), which is the most broadly based government household survey of the American work force. These data are collected for a sample of American workers and reflect their employment status; their usual wage rates; and many demographic characteristics such as their age, education, and area of residence. Unfortunately, more current data were not available to us when this study was conducted.

Using the technique of regression analysis, we are able to say what an industry pays for a worker of a given skill level or a given set of qualifications. In other words, the regression tells us what an individual with a given level of skill, education, etc., would be paid if he worked for the USPS, a service establishment, or a durable manufacturing plant.

Table 5 shows how much more a fully-employed individual would earn in each industry than he would earn in the service industry. That is, the figures presented are percentage markups over the wage paid in the service industry. For example, an individual of a given age, skill level, etc., who worked for a local government would be paid an average of 6.8% more than he or she would receive if he or she were instead employed in the service sector.

The USPS has a larger markup than most other sectors, as shown by the length of the bar in Table 5. For example, a worker with a given level of skill, education, location, etc., would earn 33.1% more by working for the USPS than by working in the service sector. Perhaps more surprising, a USPS worker will obtain a higher wage than in every other private sector industry, except mining. Of course, mining employment due to its location, unique physical job aspects, and danger is certainly different from jobs in the USPS.

These results indicate that the USPS markup over most other industries are very large. We can calculate the dollar value of this markup to the typical USPS worker. In the summer of 1982, a typical USPS worker earned $21,146. For the purpose of this calculation, I will assume that the percentage wage differentials which occurred in 1978 were the same in 1982. Of course, as the evidence above indicate, this assumption is probably very conservative since the differential apparently continued to grow since 1978. If this typical worker had not been lucky enough to obtain a USPS job, he or she would have earned the following amounts less in other industries:

Transportation and Utilities	$1207
Constuction	$1382
Durable Manufacturing	$2049
Nondurable Manufacturing	$2717
State Government	$2733
Finance, Insurance, & Real Estate	$3003
Local Government	$4178
Service	$5259
Trade	$5290

The same worker would earn approximately $1875 more in mining or $143 more in the federal government than in the USPS.

In other words, the USPS, with the exceptions of the Federal government and mining (two sectors which represent less than four percent of total employment in the American economy), pay more than any other sector. This premium represents many thousanads of dollars for the tyical Postal employee. The wage premium is simply a reward for managing to secure a job in the Postal Service, rather than in another industr. The higher wage is nothing more than a higher cost to mail users and taxpayers.

While the high wages paid to Postal Service employees are a major cost to society, they may be partially justified as ameliorating the harms of discrimiantion in our economy. Our study based on the CPS data confirms the results of many studies by economists that there are substantial race differentials in earnings in most industries. For full-time workers, we found that there is an hourly earnings race differential of 5.8% across the economy as a whole. That is, full-time white workers with a given level of education, experience, and other demographic characteristics earn, on average, 5.8% more than their nonwhite counterparts.

Looking just at the sample of Postal workers, however, we found no evidence of discrimination. We also tested for racial discrimination using other more recent data for the USPS again found no evidence of discrimination. In studies similar to the one reported above, we examined the industry wage differentials for blacks and women (see Table 6). Because the USPS is relatively nondiscriminating, the markups for both these groups over what they could have earned in other industries was even greater than the numbers reported above, since the figures reflect both the USPS markup and discrimination elsewhere. Obviously, to the degree that these markups reflect the lack of discrimination in the USPS, the markups are desirable.

Summary

For decades the USPS wage has been higher than wages for comparable workers elsewhere. This markup has been growing steadily--especially since Postal Reorganization in 1970. Relatively low quit rates indicate that workers are well-aware of how attractive USPS jobs. The best that can be said for this differential is that since the USPS does not discrimate on the basis of race, high wages in the USPS provide an especially attractive opportunity for nonwhite workers.

TABLE 1

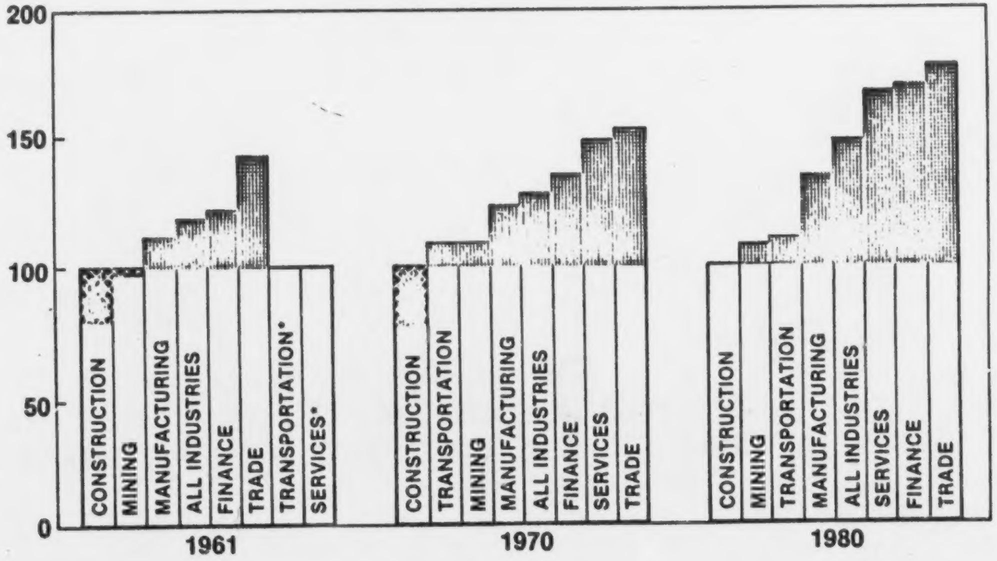
USPS HOURLY EARNINGS AS A PERCENTAGE OF PRIVATE INDUSTRY HOURLY EARNINGS FOR SELECTED YEARS

TYPE OF INDUSTRY	1961	1965	1970	1975	1980
ALL INDUSTRIES	120	126	129	145	149
MINING	97	106	109	111	108
CONSTRUCTION	80	84	80	90	100
MANUFACTURING	111	118	125	136	136
TRANSPORTATION	*	102	109	112	112
WHOLESALE & RETAIL TRADE	146	151	154	177	181
FINANCE	123	129	136	162	172
SERVICES	*	151	149	164	170

* INDUSTRY DATA ARE NOT AVAILABLE

TABLE 2

HOURLY EARNINGS
USPS AS A PERCENT OF PRIVATE INDUSTRY
1961-1980



*DATA ARE NOT AVAILABLE

TABLE 3

COMPARISON OF SALARY GAINS
GENERAL SERVICE VS. POSTAL SERVICE
1970-1981

		GS-5, STEP 4	PS-5, STEP 4
GAIN:	1970 TO 1981 DOLLARS	$ + 6,291	$ + 12,492
	1970 TO 1981 PERCENT	+ 87.4%	+ 173.5%

TABLE 4

QUIT RATES
POSTAL SERVICE VS. GOVERNMENT AND MANUFACTURING EMPLOYEES

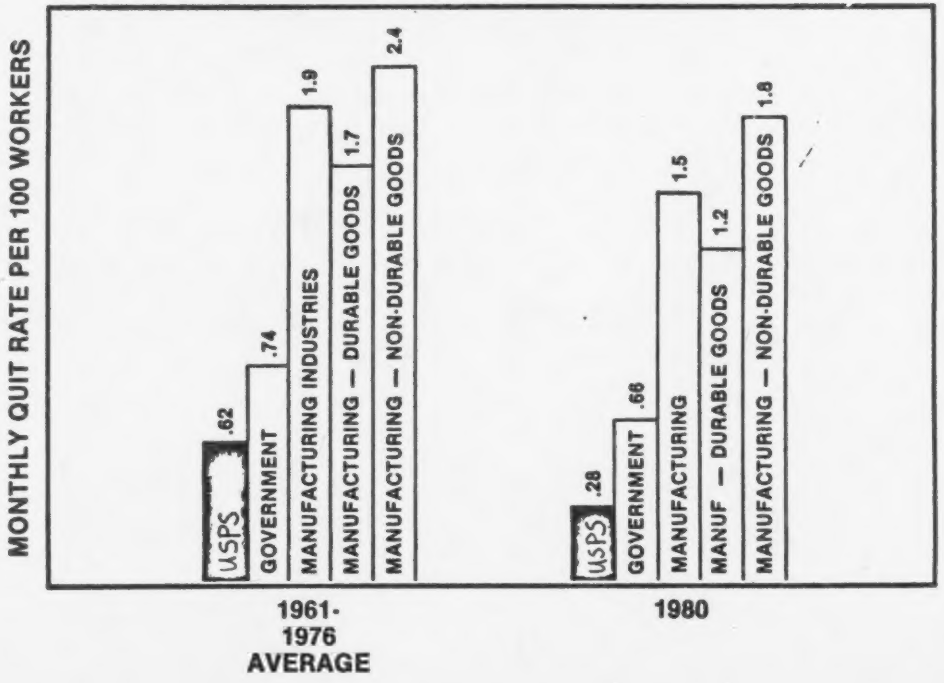


TABLE 3

Government and Private Industry Percentage Markup of 1978 Usual Hourly Earnings Over Private Service Industry

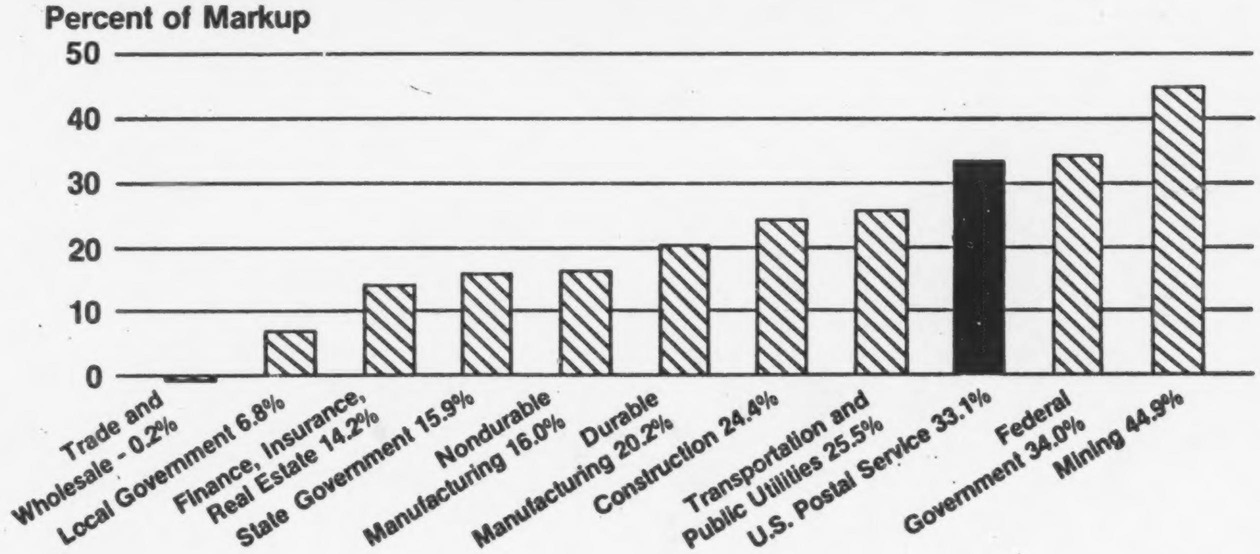


Table 6

Industry Hourly Earnings Percentage Markups over those in the Service Industry for Fully Employed Workers in 1978

	Men		Women	All Workers
	Nonwhite	All		
Construction	19.7	32.9	6.3	24.5
Durable Manufacturing	14.1	27.5	19.1	20.2
Nondurable Manufacturing	12.1	25.0	9.1	16.0
Transportation & Public Utilities	23.6	31.6	27.9	25.5
Trade and Wholesale	-2.0	8.3	-6.6	-0.2
Finance, Insurance, & Real Estate	7.5	26.2	7.7	14.2
Mining	33.3	56.1	34.0	44.9
Federal Government	42.1	37.6	29.9	34.0
State Government	16.7	16.5	16.5	15.9
Local Government	6.5	13.4	-0.4	6.8
US Postal Service	31.2	35.5	63.1	33.1

Senator SYMMS. Thank you very much.

Mr. Boodman, please proceed.

STATEMENT OF DAVID M. BOODMAN, VICE PRESIDENT, ARTHUR D. LITTLE, INC.

Mr. BOODMAN. Senator Symms, thank you for the opportunity to appear here today.

I will try to abbreviate the prepared statement that I presented to this subcommittee.

I'm David M. Boodman. I am a vice president of Arthur D. Little, in charge of one of the company's management science activities. For the past 32 years, I have been engaged in the professional practice of contract research for government and industry, applying the methods of physical and economic sciences on management and public policy issues. Among other projects, members of my department have been involved in a variety of assignments concerned with postal operations and postal services, both for the Postal Service itself and industrial clients using its services.

We have not had an opportunity to study in depth the questions posed by this subcommittee, specifically the effects of the withdrawal of the private express statutes on the future of the Postal Service. What I would like to present this afternoon is a set of views developed by the members of our staff of some of the more important issues which we think require resolution before these statutes are considered for removal.

Some things can be said about the Postal Service that mark it as unique. It handles an extraordinary volume of mail of all classes. In comparison with postal services elsewhere in the world, it is swift, it is reliable, it is low in cost. There is, however, some valid criticism. There are, on occasion, unbelievably long delays in the delivery of particular pieces of mail. Some costs are higher than carrier services offered by private sources. And despite frequent rate increases, it continues, in most years, to run at a deficit—not this year, we understand, but in most years.

There are other things to note about the Postal Service that bear on the matter of the withdrawal of the private express statutes. Both by law and as a matter of policy, the USPS does not attempt to match closely its fees to its costs. An ounce of first-class mail delivered across the country costs the sender no more than the same ounce delivered across town. For this and other reasons, the Service has come to depend on a series of cross-subsidies to support its operations.

The hope is that the earnings in certain segments of its operations will cover losses in others. To deal with a deficit, the Service must either appeal to the Postal Regulatory Commission for a rate increase or it must trim its costs. The latter measure inevitably affects service and, it should be noted, Postal Service employment.

To put this in another perspective, one must recognize the differences in the avenues to efficiency available to the Postal Service in comparison with a private corporation. Few private investors would consider placing funds in an enterprise required to provide so uniform a service at so uniform a price when the costs of serving different segments of the market vary so widely and when the degree of variation inevitably will increase as the costs of transportation and labor, its major costs, are bound to increase.

This gap between costs and prices already has attracted competitors whose ability to skim off the profitable parts of the business is abetted by technological advances in electronics and communications.

It is apparent that, with or without deregulation, the Postal Service is losing and will continue to lose shares of the more profitable market it has. Electronic funds transfer is perhaps taking hold more slowly than was anticipated, but it is, in fact, taking hold. With about half of the volume of the more profitable category of mail, intracity first-class, consisting of bills and payment checks, the effect on the Postal System could be substantial.

Even though consumers have shown some resistance to existing means of electronic funds transfer, the use of EFT inevitably will grow as improved services evolve. The banking system can benefit enormously from EFT to lower the costs of handling transactions. The public is gaining familiarity with the process largely through the mechanism of electronically transferred payroll checks, and they like that service. Rising postal rates provide an additional incentive to bypass the traditional payment system. The use of bank credit cards, T&E cards, debit cards is another negative factor. These cards, in some instances, have, in fact, added to first-class volume. But overall, they are eliminating the need for individual charge accounts and thereby consolidating small bills and payments.

Electronic communication will continue to replace business mail for ordering, invoicing, and the making of payments.' It is no longer though fanciful or visionary to thing of homes and offices of the future equipped with a terminal for the receipt of mail and other communications, as well as for computation, recordkeeping, and entertainment.

The provision of bill-paying services through home terminals can become economically viable in a way that will overcome many consumer objections to existing EFT mechanisms, we believe.

Electronic message service now offered by the Postal Service, E-Com, utilizes this speed of electronic communications to assure a rapid delivery to home or business by the traditional carriers. One can, however, envision a time not too far away when nearly every home in the United States is provided with a receiver for electronic messages, thereby eliminating the high costs and inefficiencies of personal deliveries.

An experiment of this nature currently, as perhaps you know, is being conducted by the French PTT in the city Marseilles. The rate at which these changes will take place is not yet clear. There seems little doubt that the trends have been established.

These trends will develop attractive areas of business for both foreign and domestic suppliers of equipment and service who will actively compete for that business. All will be free to offer services and to set prices in accordance with normal business practices. The Postal Service will not be so free. Its services, it prices, and its attempts to innovate must all be chosen to accord with its congressional and constitutional mandates.

The obvious consequences of this situation for the USPS will be, we feel, an intensification of the dissatisfactions expressed in past years. Some difficult choices are going to have to be faced. Higher postal rates or larger deficits will have to be considered.

If these, or some mix of them, prove unacceptable, the cuts in service that have proved to be so sensitive a public issue will have to be seriously considered.

If the Postal Service, on the other hand, chooses to join forces with any of these private services, its likely ultimate role will be that of a delivery agent.

The foregoing is admittedly a very oversimplified view of the future, which assumes a passive response by the Postal Service and does not take into account any changes in the private express statutes. We believe, with or without the retention of those statutes, the changes noted above are likely to occur, though perhaps at different rates and with different end States. We do not believe we can specify those rates or end States with any degree of precision since no study of these matters has, to our knowledge, been made.

The future of the Postal Service and the potential benefits and disadvantages of encouraging commercial competition to its services will depend essentially on how Congress defines the communication needs of our information-based economy and information-dependent democracy.

Determining the proper course will not be an easy task or one that can be accomplished without detailed analysis of the implications of the various options available. Thank you, sir.

[The prepared statement of Mr. Boodman follows:]

PREPARED STATEMENT OF DAVID M. BOODMAN

Senator Symms, members of the Committee. I am pleased by the opportunity to appear here today.

I am David M. Boodman. I am a Vice President of Arthur D. Little, in charge of one of the company's management science activities. For the past 32 years, I have been engaged in the professional practice of contract research for government and industry applying the methods of the physical and economic sciences on management and public policy issues. Among other projects, members of my department have been involved in a variety of assignments concerned with postal operations and postal services, both for the Postal Service itself and industrial clients using its services.

We have not had an opportunity to study in depth the question posed by this Committee, specifically the effects of the withdrawal of the Private Express Statutes on the future of the Postal Service. What I present today is a consolidated estimate developed by members of the Arthur D. Little staff of those effects and some of the more important issues which we think require resolution before these statutes are removed.

The issues are complex. They resist quantification and defy what we commonly think of as "correct" solutions. Which is not to say they cannot be viably and productively resolved.

The manner in which they are resolved will affect, for better or worse, the very fabric of our society. I do not envy this Committee its task of balancing the difficult trade-offs that will have to made in efficiency, economy, technology and social values.

Some things can be said about the U.S. Postal Service that mark it as unique. It handles an extraordinary volume of mail of all classes. In comparison with postal services elsewhere in the world, it is swift, reliable, and low in cost. There is, however, some valid criticism. There are, on occasion, unbelievably long delays in the delivery of particular pieces of mail; some costs are higher than carrier services offered by private sources; and despite frequent rate increases, it continues to run at a deficit. All of this may be taken by some as evidence that the U.S.P.S. is a bureaucracy-ridden, inefficient governmental service. Maybe. But the over-riding fact remains that the U.S.P.S. continues to carry out its constitutional mandate and provide the nation with much of the information exchange needed for a cohesive society. It continues to provide an important information link in the nation's commercial activity and to carry messages and parcels to even the most remote corner of the country. Credit for much of this, we believe, belongs to the Postal Reorganization Act of 1970 which put the Service under a new form of management.

There are other things to note about the U.S.P.S. that bear on the matter of the withdrawal of the Private Express Statutes. Both by law and as a matter of policy, U.S.P.S. does not attempt to match fees to costs. An ounce of first class mail delivered across the country costs the sender no more than the same ounce delivered across town. For this and other reasons, the Service has come to depend on a series of cross subsidies to support its operations. The hope is that earnings in certain segments of its operations will cover losses in others. When some of the more profitable segments are lost to competitive services or communications media, deficits occur. Not surprisingly, the larger the "surplus" in these preferred segments, the more numerous the alternatives and the more quickly they are found. To deal with a deficit the U.S.P.S. must either appeal to the Postal Regulatory Commission for a rate increase or trim costs. The latter measure inevitably affects service and, it should be noted, U.S.P.S. employment.

To put this in another perspective, one must recognize the differences in the avenues to efficiency available to the Postal Service as compared with a private corporation. Few private investors would consider placing funds in an enterprise required to provide so uniform a service at so uniform a price when the costs of serving different segments of the market vary so widely, and when the degree of variation inevitably will increase as the costs of transportation and labor increase.

This gap between costs and prices already has attracted competitors whose ability to skim off the profitable parts of the business is abetted by technological advances in electronics and communications.

It is apparent that, with or without deregulation, the U.S. Postal Service is losing and will continue to lose shares of the market. Electronic funds transfer is perhaps taking hold more slowly than was anticipated, but it is taking hold. With about half the volume of the most profitable category of mail--intra-city first class--consisting of bills and payment checks, the effect on the postal system could be substantial. Even though consumers show some resistance to EFT because it reduces the float in checking accounts, the use of EFT inevitably will grow. The banking system needs EFT to handle its growing volume of transactions; the public is gaining familiarity with the process largely through the mechanism of electronically transferred payroll checks--and they like that service; and rising postal rates provide an addition incentive to bypass the traditional payment systems. The usage of bank credit cards, travel and entertainment cards, and debit cards is another negative factor; these cards are eliminating the need for individual charge accounts and thereby consolidating small bills and payments.

Electronic communication will continue to replace business mail for ordering, invoicing, and the making of payments; it is no longer thought fanciful or visionary to think of homes and offices of the future equipped with a terminal for the receipt of mail and other communications as well as for computation, recordkeeping and entertainment.

Electronic message service, now offered by the postal service, utilizes the speed of electronic communications to assure next day delivery to home or business by the traditional carriers. One can, however, envision a time not too far away, when nearly every home in the United States is provided with a receiver for electronic messages, thereby eliminating the high costs and inefficiencies of personal deliveries. An experiment of this nature currently is being conducted by the French PTT in the city of Marseilles. The rate at which these changes will take place is not yet clear, but there seems little doubt that the trends have been established.

These trends will develop attractive areas of business for both foreign and domestic suppliers of equipment and services who will actively compete for that business. All will be free to offer services and to set prices in accordance with normal business practices. The U.S.P.S. will not be so free. Its services, its prices and its attempts to innovate must all be chosen to accord with its Congressional and Constitutional mandates.

The obvious consequences of this situation for U.S.P.S. will be, we feel, an intensification of the dissatisfactions expressed in past years. Some difficult choices will have to be faced. Higher postal rates or larger deficits will have to be considered. If these, or some mix of them, prove unacceptable, the cuts in service that have proved to be so sensitive a public issue, have to be seriously considered. If the U.S.P.S. chooses to join forces with any of the private services, its likely ultimate role will be that of a delivery agent.

The foregoing is a highly oversimplified view of the future which assumes a passive response by the U.S.P.S. and does not take into account any changes in the Private Express Statutes. We believe that with or without the retention of those Statutes, the changes noted above are likely to occur, though perhaps at different rates and with different end states. We do not believe we can specify these rates or end states with any degree of precision since no study of these matters has, to our knowledge, been made.

Without such a study we cannot offer much guidance about the probable effects of withdrawing the Private Express Statutes other than to point out that in the long run they will be less relevant to the U.S.P.S. than they are at present. If the intent of Congress is to preserve the special role of the Postal Service in, for example, reaching the more remote communities of the country, the Service must be either allowed to compete and sustain itself through more appropriate pricing practices, or provid direct government subsidy to cover the deficit that results from its established pricing practices. In addition to the direct effects of changes in U.S.P.S. policies and practices, a variety of other secondary and tertiary social and economic impacts would have to be anticipated. But change is inevitable. It is being forced on the U.S.P.S. by external forces. If the Postal Service does not plan for these changes with Congress' help, it will be forced to adapt to plans made by others.

The future of the postal service and the potential benefits and disadvantages of encouraging commercial competition to its services will depend essentially on how Congress defines the communications needs of our information-based economy and information-dependent democracy. Determining the proper course will not be an easy task or one that can be accomplished without detailed analysis of the implications of the various options available.

Thank you.

Senator **Symms**. Thank you very much for a very excellent statement, both of you.

I wanted to ask Mr. Perloff to go back to that wage question. We've had a little conflicting testimony on that.

One gentleman testified this morning—if I recall what he said correctly—that UPS had a higher pay scale than the U.S. Postal Service.

Did you use UPS as one of the private companies in your comparison?

Mr. **Perloff**. The data I used is random sampling of the entire country by the Federal Government. It includes something on the order of 60 to 80,000 people in a typical year. There may be individuals from the United States—the UPS or from other such organizations. It's quite possible some of these organizations do indeed pay more than the USPS. There's no way for me to tell, without going back and literally looking at the individuals, whether somebody from a particular industry that finely defined would be in there. I don't think that would actually be possible in our tape.

Senator **Symms**. How does this high wage that you talk about impact on Postal Service's ability to adapt to the demands of the future?

Mr. **Perloff**. I think what you have to remember is that we are comparing large cross sections of the country. There are some firms that pay more than the Post Office and many, many more that pay substantially less. To the degree that a firm could pay more than the Postal Service is paying and provide the same service, which is very questionable at this point—as Mr. Miller points out, I don't think there have been any studies that have really examined this in enough detail to be sure—but if that were, indeed, the case—that is, the Post Office is really paying between 30 and 50 percent more than a private firm could pay, then presumably that private firm would be able to provide the service and substantially cheaper.

There is, of course, the distinct possibility that the Post Office is a natural monopoly, in which case that's an infeasible option.

Senator **Symms**. If it's a natural monopoly, then the argument is moot anyway.

Mr. **Perloff**. Exactly. I doubt that it is, but it's a possibility.

Senator **Symms**. We might as well allow them to do whatever they want and to not worry about it. They'll still control it anyway.

Mr. **Perloff**. Well, you would still control how much was paid and the rate set. You could make a natural monopoly function better than it otherwise would.

Senator **Symms**. Do you have any opinion as to how the—as you say—postal workers' wages are out of control, how that happened? And then, are there any controls? And if there are controls on it, why aren't they working?

Mr. **Perloff**. You should realize I'm only talking about straight-time wages. The benefits are separate. I believe the benefits are extremely high, but I didn't have anything to compare them to. So, I believe my estimates are actually underestimates.

As I pointed out, most of the real extreme wage explosion followed postal reorganization. There have been several very perceptive books on this. I gather Congress quite consciously, at the time of postal reorganization, essentially made commitments to the unions that called for some increase at that time.

However, if you look at the data, the really big increase came in 1975, I think, just as it's an historical accident that the arbitrator at that time gave labor an extremely generous settlement. And indeed, one single decision may have explained a lot of this large increase in the late 1970's.

Senator SYMMS. Mr. Boodman, I appreciate the information that you brought in here.

Does your company have any projection as to what percentage of today's mail volume will switch to the Generation III delivery mode in the future?

Mr. BOODMAN. I'm afraid we don't, but we've seen a number of estimates made by other agencies that are so variable in the amount of diversion that they anticipate by 1990 and 1995 that we can't credit any of them.

Senator SYMMS. How much of the work force do you think will be required to deliver the hard copy mail, then?

Mr. BOODMAN. I don't think I can give you an estimate.

Senator SYMMS. You wouldn't care to guess? What you're saying is, in general, you think the Generation III terminals are going to become a wave of the future?

Mr. BOODMAN. We see that as the thing that is coming. When and at what rate, as I said, we don't know. The effect on employment is certainly going to be a massive shift from the labor-intensive activities in the Postal Service now to the higher technology kinds of employment in producing the equipment and running the service.

Senator SYMMS. Thank you both very much. I appreciate your testimony and the contribution you made to our hearings.

Our next panel is: Vincent Sombrotto, president of the National Association of Letter Carriers; Elroy Bartels, secretary-treasurer of the National Association of Postmasters; Charles L. Merin—Chuck Merin—of the National Rural Letter Carriers Association; and Don Ledbetter, president of the National Association of Postal Supervisors.

Gentlemen, welcome to the subcommittee. We are ready to hear from you, Mr. Sombrotto.

STATEMENT OF VINCENT R. SOMBROTTO, PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS, AFL-CIO

Mr. SOMBROTTO. If I may, before I read my statement, I would be remiss if I didn't make some brief comment on some of the previous comments made by those that have testified before this panel.

Apparently, what they are testifying to is not the efficiency of the Postal Service or the quality of work that the employees provide and produce for the American public, but how much they are paid. I heard a lot of talk about quit rate. I guarantee, you don't find too many people quitting jobs in any industry in this country in the last 18 months.

Mr. Chairman and members of the subcommittee, for the record, I am Vincent R. Sombrotto, president of the National Association of Letter Carriers, AFL-CIO, the union which represents approximately 240,000 active and retired city letter carriers, including 185,000 presently employed by the U.S. Postal Service throughout the Nation.

I appreciate the opportunity to appear here on behalf of the National Association of Letter Carriers, to reiterate our opposition to any repeal, suspension, or weakening of the private express statutes. In particular, we are strongly opposed to the enactment of Senate bill 1801. The survival of the private express statutes is vital to the interest of every American, postal patron, and postal worker alike.

The private express statutes have been the cornerstone of the postal system since the earliest days of our country. They were not created at the behest of labor or management, and existed long before there were postal unions or boards of governors.

Prior to the Constitution, the Federal Government had the "sole and exclusive" power to establish and maintain a national postal system. The Constitution provided Congress with the power to "establish post offices and post roads," and the governmental monopoly was reestablished under the Constitution in the Comprehensive Postal Act of 1792. That act included the equivalent of a private express statute. The essence of the law has remained the same almost throughout our history.

The Postal Reorganization Act of 1970, in keeping with this long, consistent history of Government monopoly over the mails, emphasized that the Postal Service shall provide "prompt, reliable, and efficient services to patrons in all areas" and to "all communities," a task undertaken in order to "bind the Nation together."

The repeal or suspension of the private express statutes would gravely endanger the functioning of an efficient, economical, comprehensive, and universal mail system. Such a repeal would remove the guarantee of identical prices and identical quality of service to all.

Private mail systems would have no responsibility to the public and no greater duty than increasing their own profits. They would only be interested in taking the "cream" off the top of the mail service.

As Prof. Wayne E. Fuller, author of "The American Mail," stated to you, Senator, on Friday, in the 1800's when private express companies were allowed to move mail, they "carried only the profitable mail * * * and left the rest * * * for the Post Office." They "took only those letters that entered the busy trade between cities," and left "the rural areas to the Post Office."

Although today private systems might attempt to service the great metropolitan centers and certain big businesses, they would, as in the past, leave the Postal Service alone with the burden of servicing less-used rural routes and less frequent cutomers. They would also leave the taxpayers of the Nation with the burden of paying for the more costly routes.

The diversion of business to private mail services would diminish economies of scale available to the Postal Service. The result would be less efficiency and huge deficits, at a time when Congress is moving toward eliminating what little public service subsidy is left. There would be increased costs to customers and a need for increased governmental subsidies.

The mandate of the Postal Reorganization Act to have a self-sufficient system would never be achieved, and much of the mail would lose the legal sanctity and protection provided by a governmental monopoly.

Finally, there would be a major loss of jobs and a waste of the talent, experience, and commitment of the men and women who now work for the Postal Service, workers whose productivity has been a major asset to the Postal Service. Repeal is unnecessary and unwise. As long as there are private express statutes, the Postal Service can provide efficient, experienced service for all Americans, in all locations and all walks of life, and the costs of that service can be fairly shared by the entire population.

Senator, we oppose any attempt to make the Postal Service a guinea pig to test the effects of deregulation in an area which historically and properly belongs in the hands of the Government. Governmental monopoly is proper and necessary when the goal is universal mail service and universal rates.

Those citizens who, under deregulation, have lost economical air or other transportation service to their cities and regions, or all such service, would not be deprived of affordable mail service to their homes as a result of an ill-advised national "experiment."

The Service's own administrative suspension of the private express statutes for what is known as "time-sensitive" or "extremely urgent" letter mail has cost the Postal Service needed revenues, a loss of which we warned when such changes were proposed. An experiment with overall suspension or repeal of the statutes would be an unmitigated disaster.

We letter carriers deal with millions of our fellow citizens every day. We know the importance to them of the comprehensive, universal, and affordable mail service guaranteed by the private express statutes. This is not a subject to be dealt with lightly. There should be no horsing around with the Postal Service; gimmickry cannot be substituted for reasoned analysis of the present and historical function of the Postal Service. I am confident that such an analysis will demonstrate the continuing necessity for the private express statutes.

In closing, Senator, I request permission to submit a more extensive written statement at a later time, for inclusion in the record.

Again, thank you for the opportunity to speak to you on this important topic. I would be very happy to respond to any questions you might have.

Something I might have—I have heard here—a statement was made about the GAO report on absenteeism in the Postal Service and how it was so outrageously high according to the GAO report.

I have a letter I sent to William J. Anderson, Director of the GAO, protesting very strongly and demonstrating how that study was shoddy at best and a disgrace at worst. And, so, I would like to have that entered into the record.

Senator SYMMS. Without objection it shall be.

[The letter referred to follows:]

NATIONAL ASSOCIATION OF LETTER CARRIERS,
June 11, 1982.

Mr. WILLIAM J. ANDERSON,
Director, General Government Division,
U.S. General Accounting Office,
Washington, D.C.

DEAR MR. ANDERSON: I read with considerable care GAO's recent report on employee absenteeism in the Postal Service ("Postal Service Needs Stricter Control Over Employee Absences," May 21, 1982). While the National Association of Letter Carriers certainly believes that, as a general rule, employees should maintain regular attendance schedules, there is nothing in the GAO report to suggest that they do not.

The report is an extremely biased, poorly-researched and loosely-argued document which does not reflect well on the research capabilities of what has long been a respected independent "watchdog" agency. Throughout the report there is an explicit assumption that the utilization of leave—both paid and unpaid—is immoral. In addition, conclusions are based upon little if any evidence, and the quality of evidence which is presented is highly suspect for reasons presented below. Moreover, GAO's failure to submit a draft copy of the report to the postal unions for review prior to its widespread public distribution raises considerable questions about the integrity of the research GAO undertakes.

There are two major difficulties with the report as well as a host of significant yet more narrowly-focused problems. First, the major difficulties:

1. *The treatment of unpaid leave is entirely misleading and without any factual basis.* GAO argues that unpaid leave is, by definition, leave which the Postal Service can and should control (i.e., reduce) and that the amount of unpaid leave used by postal workers in the three sample cities (10.3 days per year per employee) is, in fact, excessive. The first point is contradicted by GAO's own evidence and the second point is never proven.

Unpaid leave is, by its nature, an umbrella term embracing both disapproved adsences and approved absences. GAO's figures show that of the 10.3 average days of unpaid leave per employee, only 1.1 days (or 10.7 percent) are attributed to disapproved absences (AWOL). The remaining 9.2 days (or 89.3 percent) are a result of the following: sick leave in excess of the employee's sick leave balance, disciplinary suspensions (many of which are subsequently grieved and then voided by an impartial arbitrator), injury or duty (employees receiving compensation), personal time, maternity leave, and pending time for removal actions (where both the pending time and the removal are subject to being challenged through the grievance procedure).

Obviously, unpaid maternity leave cannot be "controlled" by an absence control program—unless GAO is suggesting that the Postal Service not hire females of child-bearing age. Disciplinary suspensions and time pending removal actions can, of course, be "controlled" if there is a reduction in the amount of discipline the Service imposes. An earlier GAO report ("Improved Grievance-Arbitration System: A Key to Better Labor Relations in the Postal Service," November 28, 1979) indicated that the Postal Service frequently imposes excessive discipline. Reducing disciplinary actions, however, runs counter to the GAO's recommendation in this report that more severe disciplinary action be imposed upon employees wtih poor attendance records. (p. 13)

Whether 10.3 days of unpaid leave per employee per year is excessive when compared with the experience of employees outside of the Postal Service is a question which can be treated independent of the conceptual problems discussed above. However, GAO never proves that 10.3 days is, in fact, more than the average amount of unpaid leave used by employees in either private industry or the federal government because no comparative figures are presented—other than a figure for the Government Printing Office. In fact, the report hinges its conclusion that postal workers used excessive unpaid leave solely on the fact that workers in GPO used an average of only 5.4 days of unpaid leave during fiscal year 1980. This, of course, assumes that work in the GPO is similar to that in the three sample post offices in terms of physical difficulty, mental and emotional stress and working environment (e.g., safety hazards, etc.). No proof is offered in support of this assumption. Moreover, the comparison is faulty purely on methodological grounds, for apparently all workers in the GPO are compared with what is not even a true random selection of postal employees in only three large-city post offices (see below).

2. *The validity of the report's sample itself is suspect.* Nine hundred postal workers in three large cities—Chicago, Dallas and Philadelphia—were selected to be representative of the 575,000 postal employees working out of thousands of postal facilities, big and little, throughout the nation. Whether the postal workers in these three cities are even representative of postal workers in the nation's major cities is not clear—especially since attendance patterns in the three cities themselves vary substantially. Moreover, GAO uses a random stratified sample in which one-sixth of the sample consists of workers with sick leave balances of 25 hours or less while the remaining workers in the sample have sick leave balances in excess of 25 hours. No information is provided as to why the sample has been stratified in this manner or whether the weighing of the two groups of workers represents the experience of the total population from which the samples have been drawn (i.e., all postal workers in the three cities). It is conceivable, for example, that the sample contains a disproportionate number of individuals who have service attendance problems. Finally, the report states that there is a sample error of ±8.14 percent at the 95-percent confidence level. (p. 3) Given the nature of the data and the conclusions that are drawn, this is

not an insignificant margin of error and suggests that the sample may have been too small.

In addition to the two major difficulties discussed above, the report has (at the least) the following problems:

1. GAO's treatment of the disciplinary action received by employees GAO deems to have poor attendance records is specious at best and outrageous at worst. First, GAO judges that of 108 employees with attendance problems, 44 of them received disciplinary actions which were "either untimely or not progressively severe . . ." (p. 13) There is no indication as to exactly what criteria GAO used for determining whether an employee had an attendance problem (given the ambiguity contained in Appendix II) or whether the disciplinary action taken was properly severe. Second, the three so-called illustrative examples presented are without any statistical support. They are merely the GAO equivalent of President Reagan's "Chicago Welfare Queen."

2. GAO concludes that absences (both paid and unpaid) substantially increase the Postal Service's overtime costs. (p. 6) No mention is made of the fact that the Postal Service employs approximately 100,000 part-time flexible workers who often fill-in for absent employees. Moreover, the only evidence presented to support this claim is data related to the absences of letter carriers in Chicago and Philadelphia. This data is suspect for a number of reasons—most important is the fact that 51.5 percent of the so-called "replacement overtime" was caused by annual leave. Since annual leave is almost always scheduled in advance, there is absolutely no justification for the Postal Service to authorize overtime to replace employees on annual leave; sufficient part-time flexibles are available and are generally utilized to replace employees on annual leave. (Whatever justification there might be in small post offices certainly would not hold true for the big-city post offices studied in the GAO report.) Moreover, in large cities, even unscheduled leave (whether paid or unpaid) usually occurs with sufficient statistical regularity to allow the postal management to replace absent employees without using overtime. In the letter carrier craft, overtime in large cities is almost always a result of increases in mail volume.

3. GAO states that the unpaid absences of letter carriers in Chicago and Philadelphia were "incurred by employees with poor work habits." (p. 7) Absolutely no evidence is offered in support of this conclusion.

In sum, GAO has produced a report which is misleading unsupportable and unfair. Certainly, the National Association of Letter Carriers believes that, generally, employees should maintain regular attendance schedules. We are also aware that among the Postal Service's 700,000 employees (bargaining-unit, supervisory and managerial) there inevitably are some abuses. However, GAO has not shown that these abuses are widespread. In fact, even if there were widespread abuses, the Postal Service should under no circumstances harass or discipline postal workers for the legitimate use of leave—both paid and unpaid.

Resting as it does upon a flimsy structure of conceptual and statistical weaknesses, illogical arguments and overt bias, the GAO report is a disservice to postal workers and to the Postal Service itself as an institution. Your report is also a disservice to those individuals in the federal government and elsewhere who rely upon the quality of GAO's reports to evaluate existing policy and devise new policy. Perhaps if you had postponed publication of the report long enough to submit it to the postal unions for review, the weaknesses I have discussed above would have been avoided.

Sincerely yours,

VINCENT R. SOMBROTTO, *President.*

Senator SYMMS. Thank you very much for your statement. Without objection, we'll let the others go ahead. So let's hear from Mr. Elroy Bartels, postmaster.

STATEMENT OF ELROY BARTELS, SECRETARY-TREASURER, NATIONAL ASSOCIATION OF POSTMASTERS, ACCOMPANIED BY FRANK MIKLOZEK, EXECUTIVE DIRECTOR

Mr. BARTELS. Senator Symms and members of the subcommittee, I am the postmaster of Tobias, Nebr., a rural community in my State, and the secretary-treasurer of the National Association of Postmasters of the United States.

I provide varied mail service to 587 customers in my town and I represent over 34,000 postmasters and postmasters retired. With me today is Frank Miklozek, executive director of our organization.

The National Association of Postmasters is composed of postmasters who are the field operations managers of the Postal Service. They are dedicated men and women who serve postal customers in every village, town, and city in the United States. They administer every phase of postal operations. From that vantage point, they know what impact the repeal of the private express statutes will have on postal services.

It is their considered opinion that to tamper with or repeal the private express statutes would play havoc with the Postal Service and be utterly disastrous to the mail service now being rendered to the citizens of our great Nation, this being especially the case in rural America.

As you are aware, the Private Express Statutes are a collection of Federal laws codified in title 18 and title 39 of the United States Code, and which confer upon the U.S. Postal Service the exclusive right to carry letters subject to certain exceptions.

Based substantially on court decisions and opinions of the U.S. Attorney General and the chief legal officers, the Postal Service has defined a letter as a message directed to a specified person or address and recorded in or on a tangible object.

Essentially, the statutes protect the revenue of the Postal Service so as to allow the Postal Service to fulfill the constitutional mandate that it provide "prompt, reliable, and efficient service to citizens in all areas and to render postal service to all communities." They provide for a natural monopoly which is essential to carry out that constitutional mandate.

The report of the President's Commission on Postal Organization in 1968 states:

> Because the public welfare attaches to the postal service to the same degree as it does to other major utilities or communications media, we find that the Postal Service is essentially a public utility.
>
> It operates as a limited monopoly; it must charge a uniform price for a given class of service and must serve all customers who are willing to pay the price. We conclude, therefore, that the principles which apply to public utility pricing are also applicable to pricing public services.

The repeal of the private express statutes would in effect abolish this natural monopoly. It would allow hundreds, or even thousands, of private firms to enter into the delivery of mail. This would mean that private firms which exist primarily to make a profit would obviously concentrate their efforts in densely populated areas where high mail volume can be anticipated, avoiding the investment in fixed costs and excessive logistical commitments, their concentrated activities no doubt would be profitable and could result in lower rates—but at the expense of providing service to rural communities and even inner-city ghetto areas.

Since their business would be localized or even regionalized, what mail is left would find its way to the Postal Service, and it would in fact have a monopoly by default in the areas avoided by private enterprise.

The consequence of this would be higher postal costs to those using the Postal Service and the need of greater subsidies from the Federal Treasury to overcome the disparity of lost volume and revenue and the fixed costs which cannot be reduced proportionately.

The report of the President's Commission on Postal Organization further states, "Though the origins of the postal monopoly are different from those of other utilities, the economic justification is the same." Two of the reasons why utilities have been chartered as monopolies are directly applicable to the Post Office monopoly.

Natural monopoly: There would be obvious inconvenience and monetary waste in having two electric companies serving the same territory with the multiple utility lines and poles and meters reaching different customers.

Similarly, it would be inconvenient and wasteful to have two gas companies tearing up the same city streets, to reach limited households. Like other major utilities, the Post Office has an element of natural monopoly: the waste of having several companies duplicating daily deliveries to almost every house is apparent.

Protection of revenue: A second reason for the utility monopoly is that many utilities are more vulnerable to competition in some portions of their activities than in others.

The Postal Service is particularly vulnerable to "cream-skimming" in the high-volume, high-value segments of its markets, for example, delivery within or between downtown business districts of major cities.

It would probably be uneconomic for the Post Office to meet competition by offering a reduced rate for such service because of the additional costs of administering a rate scheme split along geographic lines.

The competitor would then be able to serve the low-cost segment of the market, leaving the Post Office to handle the high-cost services. Under such competition the Post Office would lose lucrative portions of its business, increasing its average unit cost and requiring higher prices to all users. This would be highly discriminatory, again for those Americans who choose to live in rural areas.

The Commission concluded, therefore, that the postal monopoly provided by the private express statutes would be preserved, although not necessarily in its present form.

They recommend a slight relaxation of the postal monopoly to permit organizations to make their own arrangements for intracompany mail when they can demonstrate to the Postal Rate Commission that the Post Office does not provide them with adequate service.

The Postal Service has recognized this and in November 1979 restrictions of private delivery were separated for "extremely urgent letters where it was demonstrated the Postal Service could not competitively provide such timely service."

Other than these suggested slight relaxations in the postal monopoly, it was the recommendation of the Commission that the postal monopoly provided by the private express statutes be maintained.

The conclusion recorded by these mature, experienced businessmen after many months of extensive study and deliberation was that the revenue sources protected by the statutes help to maintain fairly stable and affordable rates to insure a universal postal service by disbursing irrevocable fixed costs over a wider revenue base.

Under the private express statutes we have a smooth domestic postal operation. We have a uniform price for the carriage of a letter. If the private express statutes were repealed, this would no longer be true.

Each private concern could establish its own price based upon the costs of its operation. There would be no uniformity of operation throughout the Nation inasmuch as you would have a multiplicity of private firms which would serve only some of the areas that they feel would be profitable to their business, and this would mean that postage paid to deliver letters in certain areas would not be valid for mail which would have to be forwarded to another area, for one reason or another.

These companies would not be interested in maintaining appropriate records for the forwarding of mail outside their service areas: First, because it would not be profitable, and second, because they would not be interested in areas not served by them.

Imagine the nightmare, since approximately 20 to 25 percent of the American people move each year. Who would you hold accountable to forward mail if the private express statutes were repealed?

At the present time the private express statutes insure smooth domestic postal operations with 164 foreign postal administrations. With the entry into the field of mail delivery by numerous private firms, it is extremely doubtful that this smooth domestic postal operation with foreign administrations would continue to exist. We find it hard to imagine a private profit-motivated entrepreneur being willing to incur the logistical costs of serving the Third World nations, for example.

The Postal Service has an extremely competent Postal Inspection Service to protect the mailing public against fraud and false representation as well as guaranteeing the sanctity of the mails.

It is again extremely doubtful if any private entrepreneur would establish such a service because it would be too expensive and adversely affect profitability.

Consequently, the users of these mail systems would not be protected against fraud and false representation. There would be no guaranteed sanctity of the mail. Furthermore, the laudable efforts of the Postal Service to stem the flow of pornography and other licentious articles through the mails could be reversed. Indiscriminate mailing of these materials could further erode the moral fabric of our society.

The Postal Service provides many other services to the American public. It helps the U.S. Government in the role of facilitator to numerous Government programs, such as draft registration, alien registration, food stamp and duck stamp distribution, and as an outlet for Treasury Department programs and also the hobby of philately.

It has even been played an integral part in collecting census data for the U.S. Census Bureau. It is extremely doubtful that any private firm would assume these activities, because it would be unprofitable and unrelated to the delivery of letters.

It is our position that the U.S. Postal Service has been and always will be a valuable public service essential to the business and personal lives of the American people. This is why we believe our Founding Fathers forged the way for private express statutes.

They evolved not for the protection of the Postal Service, but rather to insure that all Americans would always have access to a reasonably affordable, universal communications system.

Despite the availability of other communications media, we see the need of a commitment from our Government to continue the existence of this universal system for yet unborn generations of Americans.

In testimony before the Senate Subcommittee on Energy, Nuclear Proliferation and Government Processes on May 1, 1980, Senator Barry Goldwater of Arizona supported the preservation of postal traditions.

He indicated that time and time again he has supported positions that "assure the public gets the service the Constitution and law guarantee."

Further, he suggested that if postal customers resorted to the use of alternative means of delivery it would "accelerate a death cycle in which decreased service means decreased customers. Decreased customers means decreased revenues. Decreased revenues mean either or both decreased service or increased rates. And increased rates will mean decreased customers. Where the cycle ends, no one knows."

Rather than consider legislation which will facilitate that cycle, we submit that the Congress should be seeking ways to encourage greater efficiency for the Postal Service.

The opportunity to do that is available by supporting its efforts to take advantage of the latest technology. Through the application and automation with optical character readers and bar code readers and the 4-digit ZIP code add-on, we can achieve significant monetary paybacks to provide an even greater stability at prices that remain affordable for most Americans. Our organization solicits your support in these areas.

In conclusion, we recognize that the Postal Service can and must be improved, but the repeal of the private express statutes and the introduction of competition is not the panacea. We wonder whether deregulation has achieved the stated goals and objectives in either the airline or trucking industries.

We therefore strongly recommend the retention and no further tampering with the private express statutes.

I thank you, Senator, for the opportunity to appear before you and the members of this subcommittee. Mr. Miklozek and I will be happy to answer any questions you may have here.

Senator SYMMS. Thank you very much for a very excellent statement.

Chuck Merin, the National Rural Letter Carriers Association.

STATEMENT OF CHARLES L. MERIN, DIRECTOR OF GOVERNMENTAL AFFAIRS, NATIONAL RURAL LETTER CARRIERS' ASSOCIATION, ON BEHALF OF WILBUR S. WOOD, PRESIDENT

Mr. MERIN. Thank you, Senator.

My name is Chuck Merin. I'm director of governmental affairs for the 65,000-member National Rural Letter Carriers' Association.

Rural mail carriers serve over 50 million Americans daily, traveling some 2½ million miles of roads a day.

I am prepared to offer a summary of our presentation but request that our full statement be included in its entirety.

Senator SYMMS. Your entire prepared statement will be a part of the record.

Mr. MERIN. The testimony which has just been admitted to the hearing record provides, I think, a compelling case for the constitutional origins of a nationwide system of universal postal services under Federal control.

For that reason, the balance of my oral presentation will focus on two central points: First, the folly of drawing any analogies between other deregulation efforts and the proposed deregulation of the Postal Service; and second, the enduring value of the present system of universally accessible postal services.

Let me address the deregulation analogy first.

Free marketeers continue to preach the benefits of an unfettered, deregulated postal market, while ignoring the more odious consequences of such a mail cartelization.

An aide to Senator Symms was recently quoted as stating that just as "airline deregulation did not leave rural communities in the lurch, neither would deregulated postal delivery."

As any regular passenger on flights to small towns or remote areas of this country would quickly note, the most immediate effects of airline deregulations have been twofold.

First, there's been a significant decline in the quality and availability of service to small towns and rural areas; and second, a concomitant increase in related fares.

To elaborate further on this point, and to disabuse this subcommittee of the notion that airline deregulation provides a useful analogy to the current postal discussions, consider these points:

Congressman Ray Kogovsek of Colorado was kind enough to share with us a copy of a recent Congressional Research Service report which examined the effects of airline deregulation on the largely rural State of Colorado. Attachment C to our prepared statement is a copy of that report, in which the findings of the CRS were quite clear. The CRS noted that "increased fares and reduced service to rural areas since (airline) regulation was not a problem confined to Colorado."

In an April 9, 1982, Washington Post editorial entitled "Airline Deregulation Doesn't Work," noted economic analyst Hobart Rowan stated that the distorted price structure and deterioration of airline service since deregulation had been caused by the deregulation of airline rates. In short, he called airline deregulation both "inefficient and dangerous."

Perhaps for purposes of comparison, a better analogy might be drawn between the proposed postal deregulation and the ongoing deregulation of AT&T. The more ominous consequences of the AT&T deregulation for rural residents underscored in a February 28, 1982, Washington Post analysis of the AT&T experience, entitled "Preparing for a Communications Revolution." Consider this excerpt from that analysis:

> Perhaps the most important questions government will face deals with the simple delivery of service. The 1934 Communications Act gives the government an implicit mandate to assure telephone services. The splitting up of AT&T may well end the company's service orientation.
>
> The public has taken that service ethic for granted. Phone service is by any measurement cheap and efficient in most of the country, certainly better than anywhere in the world.
>
> But what if the local phone company doesn't care to serve rural residents and the urban poor, to site two examples, and operates like the good free market firm the Administration would like it to be? Local telephone service is not nearly as lucrative as long distance, computer, and information services. Does that mean that rural Americans, already far removed from prospects of getting the diversity of cable television, may also lose access to telephone service?

Clearly, service is the key word here and service is what most assuredly would be jeopardized by the repeal of the private express statutes.

Perhaps that service ethic is what is least understood among proponents of the statutes repeal. The Postal Service is a constitutionally authorized public service, pursuing a service ethic rather than private sector profit goals. The Postal Service's historical and congressionally mandated service orientation precludes it from being run like a for-profit corporation.

Unfettered access to a universal postal system operating at reasonable rates has been a long-agreed-upon, national policy. If cost effectiveness had been a natural postal objective, then comprehensive rural mail delivery services, free mailings for the blind and handicapped, and special rates for library services would never have been adopted.

Though free marketeers continue to press for postal deregulation, the uniqueness and importance of a universal postal system under Federal control, as validated by two centuries of legislative and judicial actions, should not be cavalierly ignored.

As can be plainly illustrated by the legacy of the private express statutes and of postal services to remote areas of the Nation, an untrammeled, free-market economy isn't always synonymous with the national interest.

The burden for justification for repeal of the statutes lies squarely with its proponents. Who will provide mail service to and between Heyburn and Parma, Idaho? Who will provide the interconnect for mail moving between Corydon, Ind., and Carlton, Ga.? Who will provide for that mail's security?

What sort of rate stability does postal deregulation promise for first-class "citizens" mail? Are not the certain losers of any postal deregulation residents of rural and economically depressed inner-city areas? What guarantees exist for the preservation of a nationwide postal network if the proposed deregulation is achieved?

Without specific answers to these and other questions, arguments in favor of postal deregulation smack of rather dangerous speculation.

Let me conclude our presentation by paraphrasing something that former Social Security Commissioner Robert Ball once said. Commenting on the role of the Federal Government in our daily lives, Commissioner Ball observed that three Federal agencies were the most readily synonymous with the average American's perceptions about the proper functions of his Government, the Internal Revenue Service, to equitably administer the Nation's taxation system: the Social Security System, to assure some measure of fiscal self-sufficiency in old age; and the Postal Service, perhaps the most conspicuous of the three because of its near daily contact with the American people.

Jeopardize the effectiveness of any or all of these agencies, Ball said, and he felt that you seriously compromised the average American's faith in the ability of his Government to provide essential Government services.

Repeal of the private express statutes permit private enterprise to cannibalize one of the most basic and enduring of Government's services. And you will most certainly harvest the disillusionment of which former Commissioner Ball spoke.

I have one more thing I would like to add to that. A lot has been parroted—bandied about—about the effect of cream-skimming on the private express statutes. I'd like to read one paragraph from the 1973 Kappel Commission Report, the strongest endorsement we know of. The statutes come from the 1973 presidentially imported Kappel Commission Private Express Statutes Task Force Report itself.

The Commission retained the private sector firm of McKinsey & Co. to analyze the alleged cream-skimming threat to the Postal Service. McKinsey & Co.'s report to the commission about this matter underscored the dire economic consequences to both the Postal Service and users of the mail if first-class mail diversion were permitted through a repeal of the statutes.

One key paragraph from the company's report to the commission bears repeating—I'm quoting now:

> The hypothesis has been advanced that abandonment or substantive relaxation of the private express statutes' prohibitions will expose the Postal Service to cream-skimming inroads from private competitors. This cream-skimming will most likely happen in high delivery density urban areas where the margin between postal costs and postage rates is greatest and where it would therefore be easier than in other areas to undercut Postal Service postage rates and siphon off substantial volume. It reasons that the volume losses in those low-unit costs, high-unit margin areas will raise the average cost of postal services elsewhere and thus, under the break-even mandate of the Postal Reorganization Act, create pressure for higher Postal Service postage rates. Rate increases will, in turn, open the Postal Service to more cream-skimming, beginning the cycle all over again. Finally, it is concluded that the inevitable result of this chain of events would be an aggregate increase in the cost of providing the nation with the same level and quality of postal services it now has.

Thank you for allowing us to appear. I'd be pleased to answer any questions.

[The prepared statement of Mr. Wood follows:]

PREPARED STATEMENT OF WILBUR S. WOOD

My name is Wilbur S. Wood, and I am President of the 65,000 member National Rural Letter Carriers' Association. Our carriers serve over 15 million Americans, traveling over 2,309,313 miles daily along one of 36,102 rural routes throughout the country. The rural carrier operates as a "Post-Office on wheels", providing all of those services rendered at a local post office.

I am accompanied today by Mr. Chuck Merin, Director of Governmental Affairs for the Association. We are pleased to have this opportunity to express our views on the performance of the U. S. Postal Service since the 1970 Postal Reorganization Act, and on the proposed "Deregulation" of first-class mail delivery.

Let me state as clearly as possible for the record, my Association's position concerning the Private Express Statutes. We believe the Statutes to be as essential today to the preservation and enhancement of a universal system of postal services as they were at the time of their enactment in 1792. We remain totally and unalterably opposed to their repeal.

Our testimony before the Subcommittee today will attempt to validate the thesis that only through the retention of the Statutes can the Constitutional mandate to provide universal postal services be preserved. We have defined the phrase universal postal services to mean the near unique ability of the American citizenry to enjoy equal access to quality postal services at nondiscriminatory rates, regardless of geographical residence or economic status.

Our testimony will focus almost exclusively upon the proposed

"Deregulation" of first-class mail delivery. However, as a means of expressing our views on the related question of the performance of the U. S. Postal Service since the passage of the 1970 Postal Reorganization Act, we offer as an addendum Attachment A, testimony which we recently submitted on this very topic to the House Post Office and Civil Service Committee.

To begin, a few limited observations about postal service performance would seem in order. Since relative cost and quality of service are the standards by which the Postal Service is most often measured, consider these facts gleaned from a recent Postal Service publication:

- For the third straight year, the Postal Service provided overnight service for 95% of the stamped first-class mail targeted for local or metropolitan area delivery. Although they fell short of their goals for second- and third-day delivery, they delivered all first-class (61 billion pieces) in an average of 1.68 days and stamped first-class mail in 1.51 days.

- The amount of general revenues that went into postal service operations declined still further in 1981, so that Congress' public service appropriation to the USPS represented only 2% of its total operating expense. The year before reorganization, taxpayers carried the burden for 24% of the Postal Service's operating cost. Congress would have had to appropriate more than five billion dollars to provide an equivalent subsidy for 1981.

- Customers again endorsed postal services as a good value as mail volume continued to grow last year. In 1981, a record 110 billion pieces of mail were deposited, creating an increase of 3.8 billion pieces over the previous year's total.

- The volume of first- and third-class mail rose 1.1 billion pieces and 3.2 billion pieces respectively in the last fiscal year.

- Gross productivity, which is the total volume of mail divided by the number of work years, also increased by 3.4%, for an accumulative productivity increase of 38.4% since 1970. By any standard, a rather impressive list of achievements.

The focal point of these hearings turns on the proposed "Deregulation" of first-class mail delivery through the repeal of the Private Express Statutes. To place the enduring importance of the Statutes in their proper perspective, a brief historical examination is necessary.

The Statutes are a group of Federal laws which are collectively codified in Title 18, United States Code, Section 1693-1699 and 1724, and Title 39, United States Code, Sections 601-606. They confer on the Postal Service the exclusive right to carry letters subject to certain exceptions. Based substantially on court decisions and opinions of U. S. Attorney Generals and of its legal officers, the Postal Service has defined a letter as a message directed to a specific person or address and recorded in or on a tangible object.

For a more detailed examination of the highly relevant origins of the Statutes, we would refer Members of the Subcommittee to the 1973 Kappel Commission Report to the President, entitled, "The Private Express Statutes and Their Administration". Three central paragraphs from that report bear special consideration, however:

> "By the time John Hancock, with a flourish, set his hand to the Declaration of Independence, the tradition of a government monopoly over the carriage of correspondence was already well established in the lives of the people. The new government's effort to create suitable means of implementing the monopoly, like that of the British before it, has been a continuing process. In its course, both the scope of the monopoly and its effectiveness have varied, but the substantive core has endured unchanged. The carriage of letters has historically been the exclusive business of the government.
>
> The Articles of Confederation gave Congress "sole and exclusive power" to establish and maintain post offices and post roads throughout the states, not merely between them. In the comprehensive ordinance for regulating the Post Office of the United States of America, adopted in 1782, the Continental Congress prohibited paid private carriage of "letters, packets of other dispatches" by all persons except messengers sent on "any private affair" and persons "sent officially

> in public service." Where the "general post office" did not provide service, private carriage with the consent of the Postmaster General, was declared unaffected by the ordinance's restrictions until government service was begun.
>
> Probably to sidestep arguments over the division of power between state and federal governments, the quoted language from the Articles was omitted in the Constitution which took effect in 1789, and replaced with the more general power "to establish post offices and post roads". The postal monopoly function was continued unchanged by the new government and then re-established in the first comprehensive Postal Act of the new Congress, adopted in 1792. Together with its successor statutes and the regulations and decisions interpreting them, the monopoly is continued to the present day with only peripheral changes. The Statutes have repeatedly been held constituional by the courts."

Critics of the mail monopoly have asserted that the Statutes are excessive, and that the Congress through their promulgation has exceeded its lawful authority in this area. However, as early as the 19th Century, the Supreme Court of the United States recognized the broad powers of the Congress to act on matters relating to postal services. Consider this highly relevant 1878 Supreme Court decision, which states that:

> "The power vested in Congress to establish post offices and post roads has been practically construed

> since the foundation of the government, to authorize not merely the designation of the routes over which the mail shall be carried, and the offices where letters and other documents shall be received to be distributed or forwarded, but the carriage of the mail and all measures necessary to secure its safe and speedy transit and the prompt delivery of its contents. The validity of legislation describing what should be carried, and its weight and form, and the charges to which it should be subjected, has never been questioned. . . . . The power possessed by Congress embraces the regulation of the entire postal system of the country. The right to designate what shall be carried necessarily involves the right to determine what shall be excluded." Ex parte Jackson, 96th U. S. 727, 732 (1878).

Congress further underscored its expansive view of the role of the Postal Service when it stated in the 1970 Postal Reorganization Act that "the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities and small towns where post offices are not self-sustaining. No small post office shall be closed solely for operating in a deficit, it being the specific intent of the Congress that effective postal services be insured to the residents of both urban and rural communities." (Section 101 (b) of Title 39, United States Code). When the Postal Reorganization Act spoke of the Postal Service's basic responsibility to "provide prompt, reliable, and efficient services to patrons in all areas. . . . render postal services to all communities," Congress was most certainly speaking to the role of the Private Express Statutes. Commenting on the Congress' view of this universal service responsibility as enumerated in the Act, the 1973 Kappel Commission Report stated:

> "This means that the Postal Service must serve those areas and customers for which operating costs are not recoverable under a uniform pricing policy. If the Private Express Statutes were repealed, private enterprise, unlike the Postal Service, would be free to move into the most economically attractive markets while avoiding markets that are less attractive from the business standpoint.
>
> In addition, the Act contemplates that the Postal Service will become virtually self-sufficient and that the Service is committed to achieving this self-sufficiency as soon as practicable. Without abandoning the policy of self-sufficiency and reintroducing massive subsidies, it is hard to see how the Postal Service could meet rate and service objectives in the face of cream skimming competition against its major product. But abandonment of this policy would impose an unjustifiable burden of cost on the taxpaying public and might lead to the erosion of a universal postal service."

When Senator Symms introduced his bill to deregulate the first-class mail monopoly, he asserted that the Constitution "does not state how Congress may establish postal service, much less dictate a Government monopoly." In addition, he asserted that his bill recognized "the peoples' right to free entry into the business of first-class mail delivery."

The right to enter the business of first-class mail delivery, however, was granted to Congress not only in the adoption of the U. S. Constitution but in the Articles of Confederation. Section 8, Article 1, of the U. S. Constitution states that power shall be granted to Congress "to establish post offices and post roads." This provision was adopted from the articles of Confederation which deemed that Congress "shall also have the sole and exclusive right and power of establishing and regulating post-offices from one state to another, throughout all the United States and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of said office."

Such a law was derived from the policy established by the Second Continental Congress which decreed on July 26, 1775 that: "A Postmaster General be appointed for the United Colonies, who shall hold his office at Philadelphia. . .; that a line of Posts be appointed under the direction of the Postmaster General, from Falmouth in New England to Savannah in Georgia, with as many cross posts as he shall think fit....; that the several Deputies account quarterly with the General Post Office and the Postmaster General annually with Continental Treasurers, when he shall pay into the receipt of the said Treasurers the profits of the Post Office; and if the necessary expense of this establishment should exceed the produce of it, the deficiency shall be made good by the United Colonies and paid to the Postmaster General by the Continental Treasurers."

Hence, the beginnings of a general post office in America was established under a central government, to be funded by the public treasury, and for the purpose of providing a service, not for making a profit. The centralized, service-oriented postal policy was adopted by the Second Continental Congress as reflected in the Articles of Confederation and shortly thereafter became a constitutional law. To help protect the revenues so that the Federal Government could operate a universal postal system, Congress enacted in 1792 a law which prevented outsiders from delivering letters, thereby protecting the volume of mail and ultimately the revenue derived from the postal delivery. The law, which is the basis for today's Private Express Statutes, stated:

"That if any person, other than the Postmaster General, or his deputies, or persons by them employed, shall take up, receive, order, dispatch, convey, carry or deliver any letter or letters, packet or packets, other than newspapers, for hire or reward, or shall be concerned in setting up any foot or horsepost, wagon or other carriage, by or in which any letter or packet shall be carried for hire, on any established post-road, or any packet, or other vessel or boat, or any conveyance whatever, whereby the revenue of the general post-office may be injured, every person, so offending, shall forfeit, for every such offence, the sum of two hundred dollars."

This law was adopted from an Ordinance of 1782 which was established just after the Articles of Confederation were enacted. Article 1, Section 8 of the U. S. Constitution gives Congress the power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this Constitution in the Government of the U. S. or in any department or officer thereof." Hence, the Statutes were adopted in 1792 to help Congress execute its' mandate to establish post roads and post offices.

Perhaps it is worth repeating the oft repeated aphorism of Justice Holmes when he stated in his dissent in Milwaukee Publishing Company V. Burleson, 255 U. S. 407, 437 (1921), that "the United States may give up the post office when it sees fit, but while it carries it on, the use of the mails is almost as much a part of free speech as the way to use our tongues, and it would take very strong language to convince me that Congress ever intended to give such a practically despotic power to any one man." Repeal the Private Express Statutes, permit private carriers to cannabalize cost effective metropolitan mail delivery, and the despotism of which Justice Holmes spoke will most assuredly become a reality.

As Members of the Subcommittee may be aware, the Postal Subcommittees of the House Post Office and Civil Service Committee have only recently concluded extensive hearings which focused on the effectiveness of the 1970 Postal Reorganization Act and on the timeliness of the Private Express Statutes. The overwhelming majority of witnesses who addressed the issue of the Statutes in their testimony categorically endorsed their retention. Excerpted below are but a few of the endorsements of the Statutes which came out of those hearings.

- From the March 18, 1982 testimony of Roger Sherman, a professor of economics at the University of Virginia:

"Modifying the Private Express Statutes to allow competitive letter mail service would make the uniform rate for first-class mail difficult to sustain. If priced at a uniform rate based on some average cost over all first-class mail, some of the mail may be profitable while the rest is actually being subsidized. Competing services which could operate at lower costs within large cities might offer lower prices and win business there, leaving the Postal Service to deliver the high cost letter mail, for instance, to rural areas."

- From the December 10, 1981 testimony of William J. Anderson, Director of the General Government Division of the highly authoritative General Accounting Office:

"Although there has been some discussion about relaxing the Statutes, we continue to believe that the essential design of these Statutes is sound. The Private Express Statutes make it economically possible for the Postal Service to comply with the Congressional mandate to provide a uniform rate for letter mail. Without the protection of these Statutes, competitors could establish discreet postal operations in high volume, low-cost areas such as urban commercial centers and undercut the mandated uniform price that the Postal Service charges in nation-wide service . . . . If the Private Express Statutes were repealed or materially relaxed, Congress would have to be prepared to furnish substantial taxpayer funds to provide mail services."

- From the March 4, 1982 testimony of Ralph Nader:

"The Private Express Statutes must remain intact. A government postal service is as necessary today as it was in 1792 when the Statutes were established. Repeal or weakening of the Private Express Statutes would bring on short-term price reductions in urban areas, followed by soaring price hikes across the Nation, not to mention total confusion for mailers and recipients. The whole concept of repeal is inefficient and insensitive to first-class mailer needs. It would serve only the private companies that could skim profits off the most lucrative postal markets."

But perhaps the strongest endorsement of the Statutes comes from the 1973 Presidentially appointed Kappel Commission Private Express Task Force Report itself. The Commission retained the private sector firm of McKinsey and Company to analyze the alleged cream-skimming threat to the Postal Service. McKinsey and Company's report to the Commission about this matter underscored the dire economic consequences to both the Postal Service and users of the mail if first-class mail diversion were permitted through a repeal of the Statutes. One key paragraph from the Company's report to the Commission neatly summarizes the danger of such a repeal. Quoting now from the McKinsey Report:

> "The hypothesis has been advanced that abandonment or substantive relaxation of the Private Express Statutes' prohibitions will expose the Postal Service to cream-skimming in-roads from private competitors. This cream-skimming will most likely happen in high delivery density urban areas where the margin between postal costs and postage rates is greatest and where it would therefore, be easier than in other areas to undercut postal service postage rates and siphon off substantial volume. It is reasoned that the volume losses in those low unit costs, high unit margin areas will raise the average

> cost of postal services elsewhere and thus, under the break even mandate of the Postal Reorganization Act, create pressure for higher Postal Service postage rates. Rate increases will, in turn, open the Postal Service to more cream-skimming, beginning the cycle all over again. Finally, it is concluded that the inevitable result of this chain of events would be an aggregate increase in the cost of providing the Nation with the same level and quality of postal services it now has."

And what would it cost the Congress to subsidize unprofitable postal services which it would like to retain in the event of the Statutes' repeal? When one speaks of unprofitable postal services, rural mail delivery and the retention of small post offices most often comes to mind. Though the cost of providing these services is difficult to estimate, one recent Postal Service document suggested their aggregate cost to be near 20% of the total United States Postal Service budget. If that figure were true, then rural postal services would cost the Congress approximately 4.5 billion dollars a year in an annual appropriation if these politically charged services were to be retained.

Attachment B to this testimoney provides an exchange of correspondence between this Association and the Office of the Chairman of the Postal Rate Commission. The correspondence concerns the question of rural postal costs. Though the Rate Commission was unable to provide a definitive figure about these costs, one set of numbers it did suggest exclusive of operational costs for rural delivery was in excess of 1.2 billion dollars per year. Given e Congress' current budget cutting efforts, we think it unlikely hat this Congress or any succeeding Congress will anytime soon vote the sort of annual appropriations necessary to support unprofitable postal services should the Private Express Statutes be repealed.

Free marketeers continue to preach the benefits of an unfettered, deregulated postal market, while ignoring the odious consequences of such a mail cartelization. In the February 20, 1982 issue of the Congressional Quarterly for example, one aide to Senator Symms was quoted as stating that just as "airline deregulation did not leave rural communities in the lurch, neither would deregulated postal delivery."

As any regular passenger on flights to small towns or remote areas of this country would quickly note, the most immediate affects of airline deregulation have been two-fold. First, there has been a significant decline in the quality and availability of service to small towns and rural areas; and secondly, a concommitant increase in related fares.

To elaborate further on this point, and to disabuse this Sub-Committee of the notion that airline deregulation provides a useful analogy to the current postal discussions, consider these points:

- Congressman Ray Kogovsek (D-Colo.) was kind enough to share with us a copy of a recent Congressional Research Service(CRS) report which examined the affects of airline deregulation on the largely rural State of Colorado. Attachment C is a copy of that report in which the findings of the Service were quite clear. The CRS noted that "increased fares and reduced service to rural areas since (airline) deregulation was not a problem confined to Colorado."

- In an April 9, 1982 Washington Post editorial entitled, "Airline Deregulation Doesn't Work", noted economic analyst Hobart Rowan stated that the distorted price structure and deterioration of airline service since deregulation had been caused by the deregulation of airline rates. In short, he called airline deregulation both "inefficient and dangerous".

Perhaps for purposes of comparison, a better analogy might be drawn between the proposed postal deregulation and the on-going deregulation of A. T. & T. The more ominous consequences of the A. T. & T. deregulation for rural residents were underscored in a February 28, 1982 Washington Post analysis of the A. T. & T. experience entitled, "Preparing For A Communications Revolution". Consider this excerpt from that analysis:

> "Perhaps the most important questions government will face deals with the simple delivery of service. The 1934 Communications Act gives the government an implicit mandate to assure telephone services. The splitting up of A. T. &T. may well end the company's service orientation.
>
> The public has taken that service ethic for granted. Phone service is by any measurement cheap and efficient

in most of the country, certainly better than anywhere in the world.

But what if the local phone company doesn't care to serve rural residents and the urban poor, to cite two examples, and operates like the good free market firm the Administration would like it to be? Local telephone service is not nearly as lucrative as long distance, computer and information services. Does that mean that rural Americans already far removed from prospects of getting the diversity of cable television, may also lose access to telephone service?"

Clearly, service is the key word here and service is what most assuredly would be jeopardized by the repeal of the Private Express Statutes.

Perhaps that service ethic is what is least understood among proponents of the Statutes repeal. The United States Postal Service is a Constitutionally authorized public service, pursuing a service ethic rather than private sector profit goals. The Postal Service's historical and Congressionally mandated service orientation precludes it from being run like a for-profit corporation. Unfettered access to a universal Postal system operating at reasonable rates has been a long, agreed upon national policy. If cost effectiveness had been a national postal objective, then comprehensive rural delivery services, free mailings for the blind and handicapped, and special rates for library services would never have been adopted.

Though free marketeers continue to press for postal deregulation, the uniqueness and importance of a universal postal system under federal control, as validated by two centuries of legislative and judicial actions, should not be cavalierly ignored. As can be plainly illustrated by the legacy of the Private Express Statutes and of postal service to remote areas of the nation, an untrammeled free market economy isn't always synonomous with the national interest.

The burden of justification for repeal of the Statutes lies squarely with its' proponents. Who will provide mail service to and between Heyburn and Parma, Idaho? Who willprovide the interconnect for mail moving between Corydon, Indiana and Carlton, Georgia? Who will provide for that mails' security? What sort of rate stability does postal deregulation promise for first-class "citizens'" mail? Are not the certain losers of any postal deregulation, residents of rural and economically depressed inner-city areas? What guarantees exist for the preservation of a nationwide postal network if the proposed deregulation is achieved? Without specific answers to these and other questions, arguments in favor of postal deregulation smack of rather dangerous speculation.

Let me conclude our presentation by paraphrasing something that former Social Security Commissioner Robert Ball once said. Commenting on the role of the federal government in our daily lives, Ball observed that three federal agencies were most readily synonomous with the average American's perceptions about the proper functions of his government - the Internal Revenue Service, to equitably administer the nation's taxation system; the Social Security System, to assure some measure of fiscal self-sufficiency in old age; and the Postal Service, perhaps the most conspicuous of the three because of its' near daily contact with the American people.

Jeopardize the effectiveness of any or all of these agencies, and Ball felt that you seriously compromised the average American's faith in the ability of his government to provide essential federal services.

Repeal the Private Express Statutes, permit private enterprise to cannabalize one of the most basic and enduring of government's services, and you will most certainly harvest the disillusionment of which former Commissioner Ball spoke.

Attachments

ATTACHMENT A

Statement
of
Wilbur S. Wood, President
National Rural Letter Carriers' Association

before the

Committee on Post Office and Civil Service
Subcommittee on Postal Operations and Services;
Subcommittee on Postal Personnel and Modernization

* * *

The Effectiveness of The Postal Reorganization Act of 1970

Wilbur S. Wood
NRLCA President

Messrs. Chairmen and Members of the Committee:

As President of the 65,000-member National Rural Letter Carriers' Association, I want to thank you for the opportunity to express our views on the effectiveness of the Postal Reorganization Act of 1970.

Our testimony before these Subcommittees will attempt to validate the following basic theses:

> That the Congress must reconcile its presently schizophrenic demands of the United States Postal Service. On the one hand, Congress wants postal services enhanced and rates stabilized, while it *simultaneously* has *reduced* or *eliminated* the *limited* appropriations which *further* those very goals.
>
> That limited, congressional funding of the public service and revenue foregone appropriations to the United States Postal Service (USPS) remain *vital*, if the Postal Service is *to meet* and *maintain* the standards demanded of it by the 1970 Act.
>
> That *further* reductions in these appropriations can only *jeopardize* essential but unprofitable postal services, and stimulate postal rate increases which *will ultimately prove damaging* to both the Postal Service and all users of the mails.
>
> That forces are at work within this Administration and the Congress to repeal the Private Express Statutes and undercut the viability of the present postal structure.
>
> That despite the advent of telecommunication services, there remains a desperate need to preserve and enhance basic postal services.
>
> And, that despite the advent of technological, political, and budgetary forces which will affect the USPS and the basic communication services available to its patrons, the Congress has not yet focused in on the importance of these changes. We believe that this lack of focus will ultimately inure to the detriment of all mail users, as well as to the Postal Service and its employees.

Let me begin by addressing the funding issue. I need not recall for the Committee the damaging cuts made in congressional appropriations to the Postal Service by the FY 1982 budget. Nor do I need to remind the Committee of the Administration's FY 1983 budget proposals in this area. **Our Association opposed cutbacks in these limited appropriations last year and will strenuously do so again this year. For the record, I would like to indicate why we believe these cuts to be fundamentally *misdirected* and not in the national interest.**

Our concern in this regard can best be summarized in two ways:

> **• First, we believe that the ultimate cost of major postal budget "savings" can only be reflected in significantly *higher* rates for all classes of mail, especially personal first-class mail; and**
>
> **• Secondly, that the proposed cuts reflect a fundamental lack of understanding of the reasoning behind Congress' two, limited postal subsidies. These cuts *further erode* the Congress' already declining role in the formulation of postal policy, and jeopardize many of the very services which Congress professes to be most interested in.**

In his FY 1982 budget message to the Congress, President Reagan stated that, "The cost of mail service should be borne by users, not taxpayers," and that the "Postal Service currently receives a Federal subsidy equivalent to about 7% of its total operating budget." That statement was both *factually incorrect and misleading*.

At the time of the enactment of the 1970 Postal Reorganization Act, congressional appropriations provided approximately 25% of the Service's budget. That figure today stands at 2%, not the 7% suggested by the Admin-

(Continued on page 260)

(Continued from page 259)

istration.

In principle, recent postal rate making has reflected the Administration's desire to have **major mail users pay for the predominant share of postal costs.** But taxpayers are also major users of the mails, accounting for in excess of twenty billion pieces of household mail during 1980. If taxpayers were forced to pay the actual cost of such mail, our "citizens" first-class mail would be approximately 27¢ per letter. It is business-originated mail volume which has helped to defray the real cost of postal rates for household mail.

The Postal Service's two greatest prospects for reducing operating costs and holding down future rate increases, the nine-digit zip code and involvement in electronic mail services, remain threatened by the courts and the Congress. **If these initiatives are thwarted and the limited congressional subsidies reduced, the Postal Service will likely have no alternative but to seek major rate increases for all users of the mail.**

At present, two limited congressional subsidies underwrite certain special postal interests. In the main, these subsidies support unprofitable postal services like rural delivery and small post offices, and reduced mail rates for non-profit users like churches and civic organizations.

As a matter of national policy, Congress and the general public support equal access to the mail at non-discriminatory rates for rural residents, and a "break" in postal rates for non-profit users. The Administration's budget proposals directly threaten that national policy. If implemented, the net effect of the Administration cuts would ironically be most directly felt by the very group for whom it seeks relief—the taxpayer.

In calendar year 1981, the Congress cut the revenue foregone appropriation to the United States Postal Service. The resulting 1982 rate increase for non-profit mailers, in turn, produced a flurry of activity among Members of Congress, eager to assuage outraged charitable, religious, educational, and civic organizations whose publications were threatened by these increases. Efforts are currently underway to rectify this situation, but to what end? Will $77 million be restored in revenue foregone funding as part of emergency supplemental appropriations for the FY 1982 budget, only to see even larger cuts approved for the same function for FY 1983?

When the Chairman of this Committee proposed that 10,000 small, but politically charged rural post offices be closed in an effort to meet the Administration's FY 1982 budget demands, his proposal was met by a hail of bipartisan protest. Yet, many of those same members who screamed loudest about the proposed post office closings then voted on the floor of the House to reduce the very congressional appropriation which underwrote their operation.

The point here, I think, is an obvious one. It should become increasingly clear to Members of Congress that *cutting* Postal Service appropriations is *not* without **political** and **economic consequences** as was once thought. In the broader scheme of postal operations, however, Congress has yet to come to grips with the **conflicting** demands it places on the United States Postal Service. **Simply put, Congress cannot continue to demand stable postal rates and the maintenance of conventional postal services while simultaneously reducing USPS appropriations and thwarting technological initiatives. The two pressures don't mesh and never will.**

The root of the problem lies in the 1970 Act itself. Among the most unfortunate consequences of the 1970 Act was the acceptance of the *myth* that the Postal Service would break even financially. The 1970 Act established an unrealistic and unattainable goal when it made the United States Postal Service a quasi-corporation, predicated upon private sector profit motives.

The Postal Service is a *public service*, whose historical non-profit orientation precludes it from ever attaining such a goal. Unfettered access to a universal Postal system operating at reasonable rates has been a long, agreed upon national policy. If cost effectiveness had been a national postal objective, then comprehensive rural delivery services, free mailings for the blind and handicapped, and special rates for library services would never have been adopted.

But the larger question at issue here is the *role* of the Congress in the development of a national postal policy. Congress' *limited* subsidies to the USPS are its *last viable means of control* over the Service because of the autonomy given the United States Postal Service by the 1970 Act. *Elimination of the subsidies severs the last vestige of influence, save oversight hearings, which Congress has over the United States Postal Service.* We believe in a strong Congressional oversight role in postal affairs and view the subsidies as a good means of preserving that role.

Telecommunications

There is much speculation about the future of the Postal Service in a rapidly changing telecommunications era. The consequences of electronic mail volume diversion are widely debated, and naysayers continue to depict the new technology as an electronic cassandra of doom hanging over the Postal Service's future. That this new technology will ultimately divert volume from the traditional mail streams is undeniable. The issue becomes one of not if, but how, such changes will affect the institution. It is not our intention to speculate about these changes. It is our desire, however, to underscore the need for Congressional support of USPS involvement in this changing telecommunications era.

According to a recent George Washington University report, one out of every five American adults, or 23 million people, are functionally illiterate. Broken down ethnically, 16 percent of white, 44 percent of black, and 56 percent of Hispanic people in this country cannot read or write well enough to understand a want-ad or fill out a job application. As Americans, we tend to think in terms of universal freedoms, but there's little liberty for a person who can't read a newspaper or write a letter to their Congressman. What traditional postal services have represented for more than a century is *guaranteed* access at reasonable rates to the most basic of communication services. The new electronic communications medium challenges those guarantees. If 23 million Americans have trouble filling out a job application, how can they ever hope to learn to use a home computer?

The new technologies are rampant with social, economic, educational, and geographical elitism. Conversely, one need not have a college education, live in a major metropolitan area, or be able to afford a home computer, in order to have access to the nation's oldest communications medium, the Postal Service. It is our fear that the rush to embrace these new technologies may well jeopardize one of the few universally accessible modes of communication left to the average American.

Lamentably, it is not only new technologies which threaten the Postal Service. There are elements within this Congress and this Administration that truly believe that a wholesale dismantlement of the United States Postal Service is in the best interest of American consumers. The focal point for these dismantlement efforts, which would include blocking USPS involvement in new communication technologies and reducing current service levels, would most certainly be *the repeal of the Private Express Statutes.*

Heritage Foundation

As an addendum to this testimony, we have included *The National Rural Letter Carrier* magazine articles which addressed the original 1980 and follow-up 1981 Heritage Foundation reports. As you know, the Heritage Foundation is a Washington-based research organization which has provided policy guidance for this Administration in a number of areas. One focus of their recent reports was the Postal Service, and the need for prompt "deregulation" of that institution. Quoting from their most recent paper, the Foundation stated, *"The postal monopoly must be terminated and other federal protections eliminated."* The earnestness of this recommendation was recently underscored by the appointment of the Foundation's President as an official adviser to White House Counselor Ed Meese.

Witness after witness before this Committee has underscored *the importance* of the Statutes. However, the General Accounting Office put it best perhaps when it stated that:

> **"Although there has been some discussion about relaxing these statutes, we continue to believe that the essential design of these statutes is sound. The Private Express Statutes make it economically possible for the Postal Service to comply with the Congressional mandate to provide a *uniform* rate for letter mail. Without the protection of these statutes, competitors could establish discrete postal operations in high-volume, low-cost areas, such as urban commercial centers, and undercut the mandated uniform price that the Postal Service charges for nationwide service.**
>
> **"If the Private Express Statutes were repealed or materially relaxed, Congress would have to be prepared to furnish substantial taxpayer funds to provide mail services."**

The original author of S. 1801, a Senate Bill to repeal the Statutes, likened his support for that proposal to deregulation of the airline industry. It is Senator Steven Symms' (R-Id.) contention that just as airline deregulation did not compromise non-urban airline service, so postal deregulation will not compromise non-urban postal service. But as ample airline deregulation analyses have shown, increased fares and reduced service to non-metropolitan areas have become the norm since deregulation went into effect. Indeed, syndicated economic reporter Hobart Rowen recently termed the deregulation experience "an uncoordinated and sloppy carteliz(ation) . . . which was both inefficient and dangerous." A similar cartelization will most certainly follow any relaxation of the Private Express Statutes.

The profit motive dictates normal business planning, as well it should. Service to sparsely populated or economically depressed areas of our country is inherently unprofitable. Making it profitable is a difficult, if not impossible task. If one accepts that private mail delivery firms would only pursue volume (read that urban-metropolitan) "cream-skimming," then surely only the Postal Service would be left with the responsibility to provide essential services to economically inefficient areas of our nation.

Declining congressional appropriations, repeal of the Private Express Statutes, and legislative and legal impediments to USPS technological growth do not suggest to this Association that the United States Postal Service will have the financial wherewithal to maintain such services.

Bluntly put, Congress is rapidly approaching a communications crossroads. Repeal of the Private Express Statutes, much like the on-going cuts in its limited Congressional appropriations, threatens the Postal Service's viability as a nationwide, universal communications medium. Vote to repeal the Statutes, and you assure one of two equally *unappealing* options for the Congress: Appropriate, on an annual basis, the very sizeable sums needed to fully-fund unprofitable postal services, or; Vote, by roll-call, to slowly reduce those same unprofitable but politically charged postal services.

A recent Washington Post article, "Preparing For A Communications Revolution")2/28/82), underscored the importance of the difficult communication decisions which lay ahead for the Congress when it addressed the recent deregulation of AT&T:

> "Perhaps the most important questions government will face deals with the simple *delivery of service*. The 1934 Communications Act gives the government an implicit mandate to assure telephone services. The splitting up of AT&T may well end the company's service orientation.
>
> The public has taken that service ethic for granted. Phone service is by any measurement cheap and efficient in most of the country, certainly better than anywhere in the world.
>
> But what if the local phone company doesn't care to serve rural residents and the urban poor, to cite two examples, and operates like the good *free-market firm* the administration would like it to be? Local

(Continued on page 263)

Effectiveness of Reorganization Act

(Continued from page 261)

> telephone service is not nearly as lucrative as long-distance, computer, and information services. **Does that mean rural Americans, *already* far removed from prospects of getting the diversity of cable television, may also *lose access* to telephone service?**
>
> **Does it also mean the government will pay little attention when the urban and rural poor fall even farther behind the urban and suburban middle class because they will not have access to new information, banking, shopping and, most importantly, *education telecommunications service?***
>
> Who will set the rules for providing access to new communications services, laying the groundwork for privacy rules?"

Clearly, the answer must be **the Congress.** Our message to this Committee is a clear and simple one: Let the Congress decide the communication needs of the American people in a changing technological era. We believe that the maintenance of a healthy, universal postal system provides a most logical foundation for such a network.

Respectfully submitted,

Wilbur S. Wood
President, NRLCA

ATTACHMENT B

POSTAL RATE COMMISSION
Washington, D.C. 20268

Janet D. Steiger
CHAIRMAN

April 26, 1982

Mr. Charles L. Merin
Director of Governmental Affairs
National Rural Letter Carriers
  Association
1750 Pennsylvania Avenue, N. W.
Suite 1204
Washington, D. C. 20006

Dear Mr. Merin:

Chairman Steiger has asked me to respond to your letter, dated March 17, 1982, requesting data concerning the annual cost of (1) rural mail delivery and (2) comprehensive rural postal services (rural delivery and small post offices). The cost data provided below come from the public files of the Postal Rate Commission. The source of the data, in each case, is the Postal Service.

Addressing first the cost of rural delivery, the FY 1980 Revenue and Cost Analysis (RCA) and Cost Segments and Components Report shows total rural carrier labor costs of $918,731,000 representing costs of compensation and certain benefits. Benefits included consist primarily of group life insurance, health benefits and the Service's seven percent contribution to retirement. Such benefits as workers' compensation and contributions to the retirement fund deficit, not traceable to individual labor categories on the basis of information provided to the Commission, are excluded. The FY 1980 cost of the equipment maintenance allowance, to compensate rural carriers for the use of personal vehicles on the route, was $193,176,000 according to the RCA.

When we pass beyond the direct labor and vehicle maintenance allowance costs, as reported for rural carriers in the RCA, we enter an area where judgmental allocation is necessary. The Postal Service generally does not directly identify portions of other cost categories with rural service as opposed to other types, nor, of course, does the Postal Rate Commission have the assignment of determining such an overall cost. The financial information we obtain is geared toward the analysis of costs and revenues by class and subclass of mail, in order that we may recommend rates for the classes and subclasses without reference to a rural/city distinction. The proportion of other costs besides those given above for rural carrier labor and vehicle maintenance would doubtless vary, as well, depending on the definition one chose to adopt of the term "rural". To give but one example, such costs, associated with post offices, as building occupancy and postmaster salaries could be allocated in varying proportions to rural service depending on what particular categories of post offices one decided to assume were rural for purposes of analysis.

As a result, there could be wide variations in the estimates that different analysts might make of the total cost of rural service. I hope, however, that the figures I have been able to supply as firmly identified with one aspect of that service will be of use to you.

Sincerely,

David F. Harris

David F. Harris
Secretary

Congressional Research Service
The Library of Congress

Washington, D.C. 20540

ATTACHMENT C

March 22, 1982

TO : Honorable Ray Kogovsek
Attention: Alison Cortner

FROM : John W. Fischer
Analyst in Transportation
Economics Division

SUBJECT : Fare Increases on Colorado Routes
Resulting from Airline Deregulation

As a result of the Airline Deregulation Act of 1978 and subsequent Civil Aeronautics Board (CAB) rulings, the airlines now have considerable freedom to choose routes and set fares. It is contended that routes serving largely rural areas have suffered from fare increases far exceeding inflation or those experienced on major market routes. While the CAB, through its essential air service program, will ensure that a community continues to receive air service by providing subsidy directly to the airline(s), it offers no similar relief for fares.

How fares and service on routes in your District have been affected can be seen in the accompanying table. Fares as shown in the table are for the lowest, unrestricted, one-way coach fare (or equivalent) available at the time. Information on Alamosa was not shown for 1977 in the Official Airline Guide (OAG). We believe Alamosa was being served by Frontier at the time, and its absence from the OAG was a brief oversight. (The OAG is published every two weeks.) However, within the time constraints of this request, we have no other source available to us, as we save only a very limited number of back copies of the OAG.

Airline Fares and Service, Denver to Selected Colorado Destinations 1977, 1981 and 1982

City Pair	9/1/77	8/1/81	3/1/82
Pueblo-Denver			
# of daily scheduled flights	5	7	7
carriers	Frontier	Frontier, Pioneer	Frontier, Pioneer
fare	$31	$67	$54-70
Cortez-Denver			
# of daily scheduled flights	2	2	8
carriers	Frontier	Frontier	Frontier, Pioneer, Trans-Colorado
fare	$50	$113	$96-119
Alamosa-Denver			
# of daily scheduled flights	Not listed	7	6 b/
carriers	"	Frontier, Rocky Mountain	Frontier, Rocky Mountain
fare	"	$68-82	$68-86
Montrose-Denver			
# of daily scheduled flights	2	6	6
carriers	Frontier	Frontier, Trans-Colorado	Frontier, Trans-Colorado
fare	$37	$49-69	$86
Aspen-Denver			
# of daily scheduled flights	22	Approx. 29 daily, (87) a/	Approx. 11 daily, (65) c/
carriers	Aspen Airways, Rocky Mountain Airways	Aspen, Rocky Mountain	Aspen, Rocky Mountain
fare	$32	$53	$53

Source: Official Airline Guide, September 1, 1977, August 1, 1981. March 1, 1982.

a/ There are 87 scheduled flights listed in the OAG. However, the majority operate only one day a week and are on a seasonal basis.

b/ Frontier terminated service on March 20, 1982. Remaining service provided by Rocky Mountain will be five flights daily.

c/ There are 65 scheduled flights in this market listed in the OAG. Of these, the majority operate only one day a week and many are on a seasonal basis only.

As can be seen in the table, fares have increased more on some routes than on others. Between September 1, 1977 and March 2, 1982, fares increased by 132 percent on the Montrose route, by 92 percent on the Cortez route, by 74 percent on the Pueblo route and by 66 percent on the Aspen route. During the period between September 5, 1977 and December 1981, the Consumer Price Index rose 55 percent, indicating that in each case fares have increased faster than the national rate of inflation. With the exception of the Montrose route, fares have either remained stable or fallen since August 1, 1981, indicating that the air traffic controllers strike that began in August has not yet apparently had any upward impact on fares.

Each route, with the exception of Aspen, is now being flown by more air carriers than in 1977. All of these new carriers are commuters, flying smaller, normally turbo-prop aircraft rather than the larger jet aircraft often used by Frontier. On the Aspen route, all aircraft were turbo-prop in 1977 and remain so today. According to the CAB's Report on Airline Service, Fares, Traffic, Load Factors and Market Shares, October 1981, the total number of seats available weekly on each route dropped between August 1, 1978 and August 1, 1981. The primary cause for this drop apparently is the change to smaller equipment.

Increased fares and reduced service to rural areas since deregulation is not a problem confined to Colorado. Numerous communities have complained of decreasing service. The CAB "essential service" program has been criticized as not offering enough protection for communities against the sudden loss of air carrier service. However, while both the House and Senate have held oversight hearings on deregulation that touched on this subject, there has been only limited movement towards amending deregulation legislation to increase the protection from loss of service or large fare increases.

If we can be of further assistance please advise.

-ic

Senator SYMMS. Thank you for your very comprehensive statement, and we're happy to have it as part of our record on this important issue.

We'd like to hear now from Don Ledbetter, president of the National Association of Postal Supervisors.

Mr. Ledbetter, please proceed.

STATEMENT OF DONALD N. LEDBETTER, PRESIDENT, NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

Mr. LEDBETTER. Thank you, Senator, members of the subcommittee. My name is Don Ledbetter, president of the National Association of Postal Supervisors, an organization representing over 35,000 mid-level supervisors and other managerial employees in the U.S. Postal Service. As requested, my statement will be brief, but I ask that my entire prepared statement be submitted for the record.

I am pleased to be here today to offer the views of our organization on the Private Express Statutes because these statutes are extremely important to the general public. Our organization is adamantly opposed to any relaxation or repeal of the Private Express Statutes. The central issue in maintaining universal service at uniform rates. Granting every individual in this country with an affordable means of communication is an integral part of our democratic form of government dating back to the American Revolution.

The Articles of Confederation gave Congress "sole and exclusive power" to establish and maintain post office and post roads "throughout" the States, not merely between them. For over 200 years, Congress and consequently the public it represents, has supported and maintained this basic policy. The scope of the monopoly has varied over the years, but the substantive core remains unchanged.

Opponents of the Private Express Statutes have focused their arguments largely on economics, but have not shown any empirical evidence which demonstrates that private competition is in the best public interest. I might point out that some of the representatives of the public sector this morning made it very clear in their testimony they don't want anything to happen in their changes that might affect their profit. The experts this afternoon dwelled on salaries in the Postal Service without telling where we were coming from prior to postal reorganization. Postal employees lag far behind their counterparts in private industry. Unlike a private concern, the Postal Service must balance equal treatment of every citizen with economic stability. The Postal Service is not in the business to make profits, but rather to provide universal, inexpensive, prompt, and safe postal service to the American public.

The Private Express Statutes, which are presently codified in titles 18 and 39 of the United States Code, grant the Postal Service the exclusive right to carry letters subject to certain exceptions. These exceptions are important. In 1979, the Postmaster General appointed a committee composed of large volume mailers, businesses, and postal officials to review certain rules and regulations, including those that relate to Private Express Statutes. As a result of that review, many changes were made. In 1979, the Postal Service clarified several amendments dealing with the definition of a letter. This clarification covered items not primarily used as a means of communication, an exclusion of "copy" and "proofs" used in the printing industry. letters accompanying cargo, and the approval for private carriers to handle critically needed documents for certain international ocean freight shipments.

Far more significant was the action taken by the Postal Service in October of 1979 when they suspended the statutes for private carriage of "extremely urgent" letters. A number of private concerns now actively seek customers for this particular service along with USPS. If you will examine the overall costs, how many people would be able to afford, on a daily basis, the higher costs charged by these companies.

The problem in expanding competition to all the mail is related to the complex nature of postal operations and its universal responsibilities. A large portion of postal costs are fixed and unrelated to mail volume. If the Private Express Statutes were repealed, mail volume would drop and those fixed costs would have to be apportioned over fewer pieces of mail.

Good business sense would indicate that private companies would tend to concentrate their operations in areas that are most profitable such as high density areas or with large volume mailers. Service to individuals who live in rural communities, those who live in economically depressed areas in our large cities and many small businesses would be forced to rely on the Postal Service and would consequently bear the burden of increased costs. In addition, it is possible that small businesses would be forced to relocate to areas where alternative mail service was available, further hurting rural communities and economically depressed areas in large cities.

Would a private company be so willing to pay the higher costs of delivery to, let us say, Bonners Ferry, Idaho. I don't know where that is, Senator, but I'm sure you do.

Senator **Symms**. It's up around the Canadian border.

Mr. **Ledbetter**. And not charge much more for the privilege of sending and receiving mail. Good communication has enabled this country to advance to the position it holds in the world today. The Postal Service over the years has helped provide this communication at all levels—business, personal, and governmental. And, more importantly, isn't this a vital link in our democratic society?

It is unfortunate that human nature often prevents a person from appreciating something until it is taken away. The Postal Service continues to provide services which don't necessarily turn a profit but which are essential to the public. These include door-to-door delivery which is so important to many of the elderly, corner collection boxes for convenience, 6-day mail delivery which has been proven to be essential to the business community, and the operation of small, rural post offices. Would a private company be willing to continue services which don't necessarily turn huge profits, or would the all-mighty dollar prevail?

The express statutes do not prevent the Postal Service from modernizing its operations to meet the needs of a changing society. From the pony express, to railroads, to airplanes, and now to electronic mail, the Postal Service has consistently upgraded its operations to meet additional demands. In January of this year, the Postal Service inaugurated its new E-COM service. This new technology in no way expands the private express statutes because E-COM is mail. Private telecommunication common carriers communicate via electronics with 25 serving Post Offices throughout the country. The messages are printed onto hard copy in the Post Office and then delivered through the first-class mail stream. To date, the system is working extremely well and is another demonstration of how the Postal Service is constantly working to provide fast, efficient, economical mail service.

Many people who advocate the repeal of the statutes do so on the basis that the Postal Service is not efficient and postage rates are too high. If I can digress, one of the speakers this afternoon, I believe from the Federal Trade Commission, said Government agencies are not ever as efficient as the private sector companies. He must not travel the same routes of transportation or stay in the same hotels I stay in. I submit that the information is false. The USPS has a 95-percent next day delivery performance rating; it charges the lowest postal rates in the world; has managed to keep postal rate increases well below the national rate of inflation, and has improved its productivity by 38 percent in the last 12 years. Also, when you compare the USPS error rate with private industry, the Postal Service does far better. How many times have you received a bank statement with errors? How many automobiles have been recalled on a yearly basis? The trouble with the Postal Service is that any error affects all segments of the population rather than one specific group.

In summary, the National Association of Postal Supervisors firmly believes maintaining the private-express statutes is in the best interests of the American public. A universal, affordable system is a deeply rooted principle in our democratic society guaranteed by the Constitution. The Postal Service has never abused that right. Instead, it has, on its own, moved to make changes in the statutes to assist the mailing public. In addition, it has constantly moved to upgrade operations and never ignored new technology.

We are concerned about the effect repeal would have on rural communities, economically depressed areas, and small businesses. We do not feel it should be a policy of this Government to penalize these people and force them to pay higher prices for mail service simply on the basis of where they live. And, last, we feel that many people do not understand the Postal Service and the job it does for the public. We have become a way of life in American society. As probably one of the more visible arms of the Government, it would stand to reason we would come under close scrutiny. That kind of fishbowl existence is bound to result in criticism—some fair, but a lot that is unfair.

Senator, the public policy of universal service has served this country well for over 200 years. We are not here today to defend ourselves—our record speaks for itself. Supervisors in the Postal Service are proud of the job they do, and are constantly working to improve service to the American public. We feel we do our job well, and we respectfully ask that you carefully consider what would occur if the private, express statutes were repealed.

[The prepared statement of Mr. Ledbetter follows:]

PREPARED STATEMENT OF DONALD N. LEDBETTER

Mr. Chairman, Members of the Subcommittee: My name is Donald N. Ledbetter and I am President of the National Association of Postal Supervisors, an organization representing over 35,000 mid-level supervisors and other managerial employees in the U.S. Postal Service. As requested, my statement will be brief, but I ask that my entire testimony be submitted for the record.

I am pleased to be here today to offer the views of my organization on the Private Express Statutes because these statutes are extremely important to the general public.

My organization is adamantly opposed to any relaxation or repeal of the Private Express Statutes. The central issue in maintaining these statutes is a public policy question: Providing universal service at uniform rates. Granting every individual in this country with an affordable means of communication is an integral part of our democratic form of government dating back to the American Revolution.

The Articles of Confederation gave Congress "sole and exclusive power" to establish and maintain post office and post roads "throughout" the states, not merely between them. For over 200 years, Congress and consequently the public it represents, has supported and maintained this basic policy. The scope of the monopoly has varied over the years, but the substantive core remains unchanged.

Opponents of the Private Express Statutes have focused their arguments largely on economics, but have not shown any empirical evidence which demonstrates that private competition is in the best public interest. Unlike a private concern, the Postal Service must balance equal treatment of every citizen with economic stability. The conflict was said very succinctly in 1890 by Postmaster General John Wanamaker. "There are mail routes of thousands of miles in the new States and thinly settled parts of the older country where every mile entails a certain loss to the Department; but the priceless privilege of communication by post is maintained..." The Postal Service is not in the business to make profits, but rather to provide universal, inexpensive, prompt and safe postal service to the American public.

The Private Express Statutes, which are presently codified in Titles 18 and 39 of the U.S. Code, grant the Postal Service the exclusive right to carry letters subject to certain exceptions. These exceptions are important. In 1979, the Postmaster General appointed a Committee composed of large volume mailers, businesses and postal officials to review certain rules and regulations including those that relate to the Private Express Statutes. As a result of that review, many changes were made. In 1979, the Postal Service clarified several amendments dealing with the definition of a letter. This clarification covered items not primarily used as a means of communication, an exclusion of "copy" and "proofs" used in the printing industry, letters accompanying cargo, and the approval for private carriers to handle critically needed documents for certain international ocean freight shipments.

Far more significant was the action taken by the Postal Service in October of 1979 when they suspended the Statutes for private carriage of "extremely urgent" letters. A number of private concerns now actively seek customers for this particular service along with USPS. If you will examine the overall costs, how many people would be able to afford, on a daily basis, the higher costs charged by these companies?

The problem in expanding competition to all the mail is related to the complex nature of Postal operations and its universal responsibilities. A large portion of postal costs are fixed and are unrelated to mail volume. If the Private Express Statutes were repealed mail volume would drop and those fixed costs would have to be apportioned over fewer pieces of mail.

Good business sense would indicate that private companies would tend to concentrate their operations in areas that are most profitable such as high density areas or with large volume mailers. Service to individuals who live in rural communities, those who live in economically depressed areas in our large cities and many small businesses would be forced to rely on the Postal Service and would consequently bear the burden of increased costs. In addition, it is possible that small businesses would be forced to relocate to areas where alternative mail service was available further hurting rural communities and economically depressed areas in large cities.

Would a private company be so willing to pay the higher costs of delivery to let us say, Bonners Ferry, Idaho, and not charge much more for the privilege of sending and receiving mail? Good communication has enabled this country to advance to the position it holds in the world today. The Postal Service over the years has helped provide this communication at all levels -- business, personal and governmental. And, more importantly, isn't this a vital link in our democratic society?

George Washington recognized the necessity for universal communication with those living on the frontier. "These settlers are on a pivot and the touch of a feather would turn them away...Let us bind these people to us with a chain that can never be broken."

Even of greater importance, perhaps, occurred in 1896 when the Post Office granted free rural delivery. Over half the nation at that time lived in rural areas and the service provided an improved channel for personal and educational communications. In addition, it helped promote the growth of the mail order business which was vital to people living far away from any major city and it was also a contributor to strenghtening our economy.

It is unfortunate that human nature often prevents a person from appreciating something until it is taken away. The Postal Service continues to provide services which don't necessarily turn a profit but which are essential to the public. These include door-to-door delivery which is so important to many of the elderly, corner collection boxes for convenience, six-day mail delivery which has been proven to be helpful to the business community, and the operation of small, rural post offices.

I remember the time when a former Postmaster General moved to close several thousand small, rural post offices. The opposition from constituents to their Members of Congress quickly prohibited that action. Would a private company be willing to continue services which don't necessarily turn huge profits, or would the all-mighty dollar prevail?

The Private Express Statutes do not prevent the Postal Service from modernizing its operations to meet the needs of a changing society. From the pony express, to railroads, to airplanes, and now to electronic mail, the Postal Service has consistently upgraded its operations to meet additional demands. In January of this year, the Postal Service inaugurated its new E-COM service. This new technology in no way expands the Private Express Statutes because E-COM is mail. Private telecommunication common carriers communicate via electronics with 25 serving Post Offices throughout the country. The messages are printed onto hard copy in the post office and then delivered through the first class mail stream. To date, the system is working extremely well.

There is an interest and need for this service. Mr. Al Talamantes, Vice President and General Manager of Western Union Electronic Mail, Inc. stated, "WUEMI reached the decision to act as a mailer's agent and establish 'dial-up' access to E-COM service because as a value added carrier we believe there is a market demand for E-COM service. We currently offer E-COM service to our existing customer base. We feel E-COM service offers our customers an additional media to meet their communication needs."

Mr. Mauro Draghi, Vice President and General Manager of Merrill Lynch, Pierce, Fenner & Smith, Inc. estimates their company will "mail monthly an average of 55,000 messages by the end of 1982."

Rather than prohibiting competition, E-COM has fostered it among private telecommunication carriers. Dr. Diana Guetzhow, President and Chairman of the Board of Netword, Inc., stated, "Netword believes that E-COM provides a favorable climate for small companies to enter into the electronic message field. The Postal Service has been very responsive to the input of many sectors of the business community in developing E-COM. The Postal Service has achieved a very favorable balance between private industry and government involvement. E-COM allows such small companies as Netword to compete in what would otherwise be an industry dominated by several giant corporations."

E-COM is an important step, not only because it allows for the use of advanced technologies, but because it demonstrates that private companies can work in concert with the Postal Service. The major beneficiary is again the public.

The demise of the Postal Service has been predicted on many occasions. When the telephone was first introduced critics claimed we would no longer need hard copy delivery. That is simply not the case. Mail volume has grown from 80 billion pieces in 1970 to 110 billion pieces in 1981 and it is still climbing.

The Postal Service has stated it does not want to become involved in Generation III, or point-to-point telecommunications. Public statements by the Postmaster General and other postal officials have continually stressed this point. However, as more and more people use this type of service, will mail volume significantly decline? The answer is no. If 10,000 homes subscribe to computerized services there will be 16,000 total new homes, for instance. Who will serve those 6,000 additional homes? All present and projected estimates show the need for hard copy delivery continuing well into the future. Past history certainly affirms that assessment.

Many people who advocate the repeal of the Private Express Statutes do so on the basis that the Postal Service is not efficient and postage rates are too high. The facts indicate otherwise.

Since Postal Reorganization was passed in 1970, the Postal Service has improved its productivity rating by 38%. 72,000 fewer employees handle 26 billion more pieces of mail. I personally know of no other company that can claim that record. In 1981, the Postal Service had a 3.4% productivity rating.

Errors are also looked upon as being a unique problem to the Postal Service. Yet, when you compare the facts, the Postal Service error rate is lower than most private businesses. For instance, how many times have you received a bank statement with errors? How many automobiles have been recalled on a yearly basis? The trouble with the Postal Service is that any error affects all segments of the population rather than one specific group. And, when you are dealing with over 110 billion pieces of mail, a 1% error rate can mean thousands of letters a year.

The USPS has a 95% next-day delivery rating which is excellent record by anyone's standards considering the size of the job, and the number of pieces that must be delivered.

Phoenix-Hecht, a Chicago based consulting firm that conducts independent mail surveys for major banks, reported that the average mailing time for surveyed cities has improved by as much as a full day since Postal Reorganization. In releasing its findings, the company observed that "a long-term assessment of the system's cost versus productivity might well prove the Postal Service a model for other governmental agenices with regard to efficiency."

Of the newspapers who conducted their own mail surveys during 1981, virtually all reported that the Postal Service delivers what it promises nearly all the time.

The Postal Service conducted its own survey in April of 1981 of household customers and found that 75% of those surveyed gave the Postal Service a favorable rating. The areas that rating is based upon include employee courtesy and knowledge of work, service to senders and receivers of mail, efficiency of service, reasonable delivery times, convenients hours of service, service after loss or damage, concern for customers, reputation of the organization, and comparability with other public services.

In regard to postage costs, the United States has the lowest postal rates and most efficient system in the world. For instance, in Canada a first-class stamp costs 25¢; in Germany, 27¢; in Great Britain 26.2¢, and in Sweden a high of 30.2¢.

Even more enlightening is how postal rates compare with other price increases in the economy over the last three years. Since 1978, postage has gone from 15¢ to 20¢ - an increase of 33%. The cost of a private home is up 36%; the cost of a Ford Mustang - up 70%; one pound of chuck roast - up 56%, and for a loaf of bread the increase is 41%.

The Postal Service is affected by rising costs just like any other business. When a gallon of gasoline goes up 103%, the USPS, which owns the largest fleet of vehicles in the world, has to pay the higher price. A 1¢ increase in the price of gasoline costs the Postal Service over $3 million. Also, consider the costs for heating and light and maintenance of facilities. The Postal Service has managed through more productivity to meet these rising costs and still keep postal rates affordable.

In summary, Mr. Chairman, the National Association of Postal Supervisors firmly believes maintaining the Private Express Statutes is in the best interests of the American public. A universal, affordable system is a deeply rooted principle in our democratic society guaranteed by the Constitution. The Postal Service has never abused that right. Instead it has, on its own, moved to make changes in the Statutues to assist the mailing public. In addition, it has constantly moved to upgrade operations and never ignored new technology.

We are concerned about the effect repeal would have on rural communities, economically depressed areas and small businesses. We do not feel it should be the policy of this government to penalize people and force them to pay higher prices for mail service simply on the basis of where they live.

Many people do not understand the Postal Service and the job it does for the public. We have become a way of life in American society. As probably one of the more visable arms of the government, it would stand to reason we would come under close scrutiny. That kind of fishbowl existence is bound to result in criticism -- some fair, but a lot that is unfair.

Mr. Chairman, the public policy of universal service has served this country well for over 200 years. We are not here today to defend ourselves -- our record speaks for itself. Supervisors in the Postal Service are proud of the job they do and are constantly working to improve service to the American public. We feel we do our job well and we respectfully ask you carefully consider what would occur if the Private Express Statutes are repealed.

Senator Symms. Thank you for a very excellent statement, all four of you, in fact. I think that your last sentence there certainly is correct. I think most of us do feel that the Post Office does a very excellent job and the workers are very dedicated at the Post Office. I think that's the purpose of these hearings, to ask that question, where we are going. But I couldn't help but note that if we haven't done anything else by these hearings, at least the Joint Economic Committee has gotten all four of you together. So now may be the time to go ahead and negotiate the next contract, because you're all here on the same side of the issue.

Mr. Ledbetter. We usually are together.

Senator Symms. I want to ask you a few questions. In talking about the wages of Postal workers, and Mr. Sombrotto, you brought that up, if the UPS is paying higher wages than the USPS, why would the Postal Workers Union even have a second thought about not having the job roll expanded at UPS and maybe contracted at the U.S. Postal Service? If you can get more money working for UPS, why not let them do more? Just as a point of curiosity, I ask that question.

Mr. Sombrotto. That is a different company doing a different business. Actually, they don't have a national contract for all UPS workers. They have sectional or regional contracts, some might be more and some less. On balance, I would say, yes, they are paid a little more than the Postal employees. No question about that. And that comes to the heart of the matter of all that testimony about how well paid Postal employees are. It seems to me that previous witnesses were concentrated on how much Postal Service pays its employees rather than the kind of job it does and the performance of the Postal Service due to the efforts of the employees and those entrusted with the responsibility of managing the Post Office.

It occurs to me from my vantage point, and certainly as the only one here that negotiated in the last contract, that we should be getting paid more. We would like to get paid more. We think we're entitled to more. We think we perform a service that is unmatched in our society. I get a little upset when I hear people say this. I have no objection to professors writing books. I have no objections to people that make a living that way. I applaud them for the way they make their living. It's just they don't know the first thing about what they're talking about when they talk about Postal Service.

Senator Symms. What comment would you make in view of the fact that UPS pays higher wages, but 85 percent of the Postal Service's total dollar commitment goes to labor as opposed to 65 percent in United Parcel Service? Are we in a period now of a transformation in the Postal Service? Is it going to be able to adapt to the technological changes of the future fast enough, or is this labor intensity going to keep the USPS dollar commitment at that 85 percent level?

Mr. Sombrotto. I don't know what the percentage is going to be. I don't think that new technology's going to indicate, there might be some——

Senator Symms. How about the ZIP+4, for example?

Mr. Sombrotto. I don't know the impact that would have. I would believe that the Postmaster General who is entrusted with managing the Postal Service will try to reduce reliance on the capital, on the labor-intensive side in trying to create new methods of processing mail that might lower that figure. But I don't——

Senator SYMMS. Do you favor the ZIP+4?

Mr. SOMBROTTO. Not the way the ZIP+4 has been introduced in our organization. We don't have an automatic knee jerk reaction to be against anything that is created by Postal Service to increase productivity, but we think, and we believe very strongly that when management makes a commitment such as they are in the ZIP+4, that it should be thought out more thoroughly. All the ramifications of such a system must be thought through. It's interesting, because somebody here was talking, one of the previous witnesses was talking about computers, you know, Generation III, and the question also of money transfer, electronically, and that it hasn't caught on as well as they had expected. I believe that's paraphrasing what he said. I'm not too sure about American society's willingness to accept these new technologies so quickly. I think there's a basic market resistance.

There has been a market resistance from the public about the 9-digit ZIP code or the ZIP+4, which has just a change to dissuade people from thinking about 9 digits. But in any event, there will be changes, we expect that, and the Postal Service, as one of the previous members of this panel has testified has always been able to adjust and conform to marketplace changes. As he said, the pony express, and so forth.

Senator SYMMS. Chuck, do you favor the ZIP+4?

Mr. MERIN. My association has no official position on ZIP plus. Historically, we have endorsed any technological innovations which will help the Postal Service. I want to make one observation, if I can, about Professor Adie's study. One comment he made was he was disillusioned about the lack of incentive-type performance, pay contracts. He obviously hasn't studied all Postal employees, because rural letter carriers are paid on a somewhat unique pay system, which is directly related to the length of the route and the number of patrons that they serve. It's not in any rural carrier's best interest not to deliver mail efficiently or without any due speed. That's a sure thing with all Postal employees.

I think perhaps that mistake on Professor Adie's part, that omission on Professor Adie's part makes the rest of his work somewhat suspect.

Senator SYMMS. So you favor that ZIP+4?

Mr. BARTELS. Yes; management would, as far as productivity, any increase in productivity we would favor. We feel with the increased volume of mail that we need new technology.

Senator SYMMS. Do you agree with that, Mr. Ledbetter?

Mr. LEDBETTER. Yes; very much so.

Senator SYMMS. You know, we had one witness in here—were you here Friday?

Mr. SOMBROTTO. No; unfortunately, I wasn't.

Senator SYMMS. I know Chuck was here Friday. There was one witness who contended that the Postal Service couldn't keep up with the times because the union was so opposed to change. That witness called the Post Office a dinosaur because of the inflexibility of the union. Maybe you'd like to comment on that, because I know you've got thousands and thousands of dedicated workers that might like to have a chance to say something about that in the record.

Mr. SOMBROTTO. Sure. Any responsible labor leader would recognize and understand, if the Postal Service does not advance and take advantage of new technologies that are offered, it will only be a matter of time until hearings such as this will reach some kind of a conclusion and will be taken away as we know it. We have to recognize that there has to be more productivity. We don't fight it. We encourage it, because we want to share in those productivity gains, because we're a central and very important component to any productivity change. We think that by our endeavors we are entitled to share in those gains. So when anybody says that, they don't know what they're talking about.

Incidentally, I just read briefly, I have a copy of all that testimony that was before you, I read where a gentleman by the name of Brennan that had a private hand delivery service in Rochester, he makes no——

Senator SYMMS. It was a lady.

Mr. SOMBROTTO. It was a lady? Oh, it was a lady. I thought it was Peter Brennan. Patricia. We will treat her just the same as we would a Pete, if he was Pete, because in the Postal Service we treat everyone alike. Some of us say they treat everybody lousy, but that's another matter. But she said, and I read here right from her testimony, "They handle as many as 3,000 pieces of mail a day with five people handling the mail. And then she said there were 12 letter carriers that did the same work. I see she doesn't understand anything about letter carrier work. There isn't a letter carrier in Rochester, N.Y., on any given day that won't handle as much as 3,000 pieces of mail a day himself. So when they make these kinds of statements and put them in the record, there's no basis in fact.

But I do want to make another comment, if you will allow me.

Senator SYMMS. Certainly, that's why we're having the hearing.

Mr. SOMBROTTO. There's such a discussion and a dialog going on in this Nation that private enterprise, free market is the way to do business, and that's the salvation, and that's the way our economy is going to be resurrected, and things are going to get better, if we allow the marketplace to make all the decisions.

I read from the 1982 March edition of "SAVVY." It's about the American insurance business which is—if it's not the biggest business in this country, then I don't know which is. It owns 30 percent of Chase Manhattan, Prudential does. They've got more money than they know what to do with and how to invest. But I want to read you from it about the insurance business. I'll go over it very briefly. "If you took all the men and women employed in the U.S. insurance industry and laid them head to toe starting in New York, William and John Streets"—a little talk about the insurance industry equivalence of neighborhoods and Wall Street, that's down in my neck of the woods, where they do most of the insurance business—"they would stretch over the West Side Highway, over the George Washington Bridge, into New Jersey, down the New Jersey Turnpike into the Pennsylvania Turnpike to Ohio. Ohio to interstate 80 to Chicago, Des Moines, Iowa, Lincoln, Nebr., Cheyenne, Wyo."—they didn't mention Idaho, and I'm sure you're slighted by that, Senator—not one of these people, not one produces anything as such.

The insurance is a risk spreading, paper shuffling business. But each one of the average—the average employee gets paid in the vicinity of

$20,000 a year. That is the average employee, and the amount of employees in the insurance business is 1,895,000 employees, three times as many people as it takes the U.S. Postal Service.

There is a quote here. Just in order to make the presentation honest, and to show you that I'm not trying to hide anything, it says in parentheses, "(itself no model of efficiency)." I would argue with that one brief comment in this article. Consider the Postal Service pays a personal visit, a brief one, to almost every home and office in the country five or six times a week, processes more than—it says 100 billion, it's now over 113 billion—separate pieces of mail each year (no small portion generated by the insurance industry) and incidentally runs 30,000 retail stores where you can walk in and buy stamps, register letters, apply for passports, send money orders, or collect your mail, and it does it with one-third as many people as process the Nation's insurance, which suggests two things. First that the insurance industry is enormous, which it is, and second, they can perhaps be a lot more efficient.

That's private industry. That's one of the cornerstones of our economy, the insurance business in this Nation. Here is an insurance publication which takes note of the fact of the enormous inefficiency in the insurance business itself.

I'm not here to try to criticize the insurance business. I just wish they would cut the rates on my automobile insurance, so that it would be more affordable for me, but that's another matter.

Senator SYMMS. Maybe next week we'll have some hearings on the insurance industry. [Laughter.]

I wanted to ask you one other question, two other questions actually. If I interpreted your testimony correctly, you think that if the private express statute is tampered with, there would not be good delivery in rural areas, urban ghettos, and other areas; is that correct?

Mr. LEDBETTER. I think the Post Office would be required to furnish it, but at much higher rates. You know the Congress right now is eliminating anything for public service costs in next year's budget. There would have to be something done or else the rates would go to the ceiling.

Senator SYMMS. Do you suppose we ought to make an attempt to just allow the private carriers to compete in the rural areas and——

Mr. LEDBETTER. It would be interesting to see the mail boxes in front of those rural homes. Chuck Merin's group would have one color box, UPS would have another color and somebody else would have another. I don't know how they would designate which box was for which private mail carrier.

Mr. MERIN. Senator, you asked a real good question the other day. Friday morning you asked Professor Fuller, you said very pointedly, did he think private enterprise could deliver the mail in rural areas. And his response to you, I think I'm paraphrasing it correctly, was, yes, they could, but no, they would not. They would not, because it was cost inefficient. So if you accept it as cost inefficient, what you're going to do is get an occassional independent contractor who would select a given limited route and deliver the mail there, and I dare say, speaking for 15 million American patrons, 65,000 rural letter carriers, the postal needs of rural America are better served by a comprehensive network of qualified postal agency employees.

Senator **Symms**. Well, that's what I had expected you to say. However, UPS says they do it because it is profitable. It feeds their whole system.

Mr. **Merin**. Let me, if I can——

Senator **Symms**. I mean delivery to the rural areas.

Mr. **Ledbetter**. UPS also drops off a lot of parcels at little rural post offices and let's them do the dirty work at the end of the line.

Senator **Symms**. Do they stamp them then?

Mr. **Sombrotto**. Yes.

Senator **Symms**. They buy stamps, they pay the postage when they do that?

Mr. **Ledbetter**. They pay the postage from there on.

Mr. **Merin**. I have a piece here you may find interesting. It's from the St. Joseph's Gazette in St. Joseph's, Mo. It's an article about the United Parcel Service. It specifically talks about UPS to rural America, and I think UPS, as an aside, is a very fine institution, providing useful services. What it talks about specifically are the deficiences of UPS to rural postal patrons. If you'd like, I'll be happy to provide it for the record. This morning's witness, a gentleman from the UPS, talked about the availability of parcel services.

Senator **Symms**. We'll make that a part of the record.

[The article referred to follows:]

[From the St. Joseph (Mo.) Gazette]

ABOUT UPS—THE REST OF THE STORY

(By Gary Chilcote)

[Editor's note. Gary Chilcote, staff writer for the *St. Joseph Gazette* in St. Joseph, Missouri, has written an article that destroys some of the myths commonly held about the United Parcel Service. UPS is often held up as an example of excellence in service by many who are anxious to destroy the United States Postal Service by favoring the privately owned carrier. See Mr. Chilcote's article below.]

United Parcel Service, a private firm specializing in package delivery, wants its St. Joseph and Northwest Missouri customers to call a St. Louis suburb almost 300 miles away for package information.

That is the word from Alan M. Finbloom, district representative of UPS for Missouri. He makes his home in Columbia, but gets his calls through that toll-free Earth City number that all Missourians are asked to use—800-392-3730.

Almost as unique as its package delivery service is its way of doing business. UPS is a blend of free private enterprise, U.S. Postal Service stubbornness, and the railroads' "public de damned" attitude.

Consider these business policies:

Their St. Joseph telephone number is unlisted.

The St. Joseph office (not really an office, but a garage, insists Finbloom) has weekday hours of 8:30 to 9:30 a.m., and 5 to 6:30 p.m. only.

Drivers are instructed to deliver packages to a neighbor if there is no answer at your door.

To pick up a package the driver was unable to deliver requires a trip to the St. Joseph UPS "garage" located southeast of town on highway 169. The trip must be made during their unusual business hours.

Finbloom agrees the St. Joseph location is not convenient for everyone, but says it is handy for delivery trucks which use Interstate 29 to haul their packages.

"We can't have substations all over town like the Post Office," Finbloom explained. "Anywhere we located it would be inconvenient for some people. St. Joseph is fortunate, though, that it has an office at all. Most towns in Northwest Missouri have no UPS office at all."

He said until recently, St. Louis, with a metropolitan area of well over 1 million people, had only one UPS office. Now it has two, one in the downtown area and one at Earth City. People wanting to mail or pick up packages in St. Louis must go to one of the two UPS facilities there.

"There's really little reason to go to our UPS offices," Finbloom explained. "I used to be a driver, and I know that all drivers are instructed to look for a neighbor with a light on or a door open if the addressee is not at home."

The UPS policy is perhaps a reflection of today's lifestyles where both the husband and wife are employed and seldom at home during the day. Finbloom said it does little good for a routeman to come around every afternoon at 2 p.m. to try to deliver a package if the couple is at work.

It is for the working family that UPS tailors its hours. In St. Joseph, for instance, the 8:30 to 9:30 or 5 to 6:30 hours are supposed to offer a time when even working couples can pick up a package. The U.S. Postal Service, he points out, does not offer evening service.

UPS workers may have regular hours, but they occur at strange times. Often packages are delivered after dark as late as 7:30 to 8 in the evening. Again, says Finbloom, this is when the routemen find customers at home.

"We don't want people calling the local office to mail a package," Finbloom said. "That is why the phone number is unlisted. Sometimes in a city when too many people learn the number, we have to change it."

He said UPS gives out its local St. Joseph number only when a customer must contact them locally to see about package delivery.

"The rest of the time we want them to call our toll-free district office at Earth City. Chances are, if you called the St. Louis number, you would be calling someone out from greasing a truck. Its really just a garage, not an office," Finbloom said. "We can't afford to have a person there all day just to answer the phone."

The district representative said UPS can deliver packages to any town and that routemen go to all small Northwest Missouri communities on a regular basis.

"To mail a package by UPS, simply call our toll-free number at St. Louis. Tell them the weight of the package and where it is going. They will tell you the cost, and arrange to send a routeman to pick it up the next day," Finbloom said.

"You simply pay the routeman the specified amount. You must have correct change, though, because he does not carry change."

For the customer, it's a pretty inconvenient set of operating rules and policies for an undertaking that is supposed to be a private enterprise answer to the U.S. Postal Service.

The federal bureaucracy couldn't make it much more complicated.

Mr. MERIN. It talked about the availability of parcel services from UPS, it's probably worth mentioning, that he forgets the rural letter carrier is essentially a post office on wheels, has all the authority and capacities of the post office, can make change, can tender money orders and can handle parcels and packages.

So with that in mind, this might be an interesting piece for the record.

Senator SYMMS. I want to ask one more question from each of the four of you, and then I'll let you go. I know the hour is late.

Postmaster General Bolger said in his statement this morning, and I quote:

> First of all, I want to go on record, the only reason to retain the private express statutes should be that they are still needed in the public interest. I don't believe they should be retained for the benefit of postal management, postal employees, or postal unions.

Do you all agree with that?

[Chorus of yeses.]

Mr. LEDBETTER. I wouldn't be very proud working for the post office, if I didn't think it was doing a service to the American public.

Senator SYMMS. The other point is, if advances in technology and innovation and changes in the needs and demands of Americans result in the clear outdating of the private express statutes, or if the Congress can devise legislation that fully meets the needs of the American people in a better manner, would you then be willing to support the repeal of the monopoly?

Mr. **Merin.** If it were fully comprehensive in scope, it certainly would be worthy of our consideration. The problem is, I don't think you can devise a plan.

Senator **Symms.** Senator Goldwater says the burden of proof is on the advocates of repeal of the statute to prove that it would be better, and the Chairman of the Federal Trade Commission says, in the United States the burden of proof should be on those who are preaching for a monopoly.

Mr. **Sombrotto.** It's not a question—and I subscribe to the statement that we will support Senator Goldwater in this area.

Senator **Symms.** I want to get the union on the record backing Goldwater. [Laughter.]

Mr. **Sombrotto.** We've agreed with Senator Goldwater on many occasions and disagreed with him on many others on different issues. I might add, with the Postmaster General, too. It's not as if we go along arm in arm. There are areas of agreement and areas of disagreement, but I certainly subscribe to what Senator Goldwater has said. We have a history, we have a record of over 200 years of dedication and service to the American public in this republic. If anyone wants to change it, the burden should be on them to show why it has to be changed and how it benefits the American public to make that change.

And I would just add this one note: I've never heard of anyone, anyone that has ever asked to have the private express statutes repealed, that's interested in doing the kind of business the Postal Service does, that would be advocate or take on the responsibility of doing just what the Postal Service does, and that is, provide service to the entire continental United States, Alaska and Hawaii, and Guam, and the Virgin Islands, and Puerto Rico, and take that responsibility. Everyone seems to say, "Well, we're going to Manhattan, downtown Manhattan or downtown Rochester, and we'll be glad to deliver letters for 10 cents apiece."

If that were the case, the Postal Service could compete, if that was their responsibility. That's not the responsibility of the Postal Service. The first amendment makes it clear that the charter for the Postal Service is to provide a safe document service that provides each center with the absolute assurance that that message has the sanctity of the message being delivered.

Senator **Symms.** Do any of you disagree with the Postal Service's interpretation of the statute, the first-class statute, where they have ruled that they will not be involved in third terminal electronic communications? Do you disagree with that?

Mr. **Merin.** I'm not prepared to make that statement. I disagree with the statement, if it's made out of hand and it's made without any qualifications.

Senator **Symms.** The Postmaster General said it this morning.

Mr. **Sombrotto.** I know what he said, and I disagree with him. This is one of the areas that I disagree with him in.

Senator **Symms.** He stated that is his official policy. I'm concerned about that personally.

Mr. **Sombrotto.** That's what he feels should be the policy of the Postal Service from the management level. I think there are other levels that have to be accommodated. That is, the employees and, more importantly, the American public, what they feel about that issue.

Senator SYMMS. If you have to have a monopoly, a legal monopoly to make the system work, and it's viewed that it's in the public interest, my last question is, what if future technological innovations allow hard-copy communication transfers to be made by telephones or with little computer chips? Won't the postal system lose a lot of business? Up to now, the Postal Service has carried 3, 4, or 5 billion more letters each year than it did the previous year. With the modernization of printing facilities, it seems like everybody has a printing press, and you just get more and more mail to carry.

Mr. SOMBROTTO. Where I disagree with the Postmaster General is to make that point at this point in time. That's not to say that that might not happen, and that might not be the ultimate position. This is not an attempt to have a make-work project out of the Postal Service because we have a union and because we represent people. The American public will ultimately make that decision for all of us. We recognize that and understand it. I think it's too early in the game to start talking about whether or not we would be involved in any aspect of Generation III. If I were to speculate—I would just be speculating—I would say we probably would not. But I don't know what's going to happen in the next decade. I don't know what's going to happen in the next two decades. I know experts have been proven wrong many, many times before. So I'd rather wait and see what happens and develops before I make a statement to that effect.

Senator SYMMS. I wish to thank all of you who testified and all the people who helped make these hearings a success; including my staff member, Sam Rouston, and the staff of the Joint Economic Committee. I appreciate their help. In my opinion these hearings have been a success and the testimony and information we've compiled during the 2 days of hearings will provide a basis for further consideration of this important issue to the Congress.

As I stated at the beginning of the hearings, the record will remain open and will be circulated for comment to postal and other economic experts that may wish to make some contribution.

I would hope that all of you would consider that these hearings in no way are intended to be a slap on the face of the Post Office or the men and women who so proudly work and deliver the mail in this country; rather, the hearings are an effort to focus attention on the question of free entry into the market and freedom itself. If modern technology is taking us somewhere, we want to be careful not to have any statutory restraint on our progress.

So I appreciate all of you that have testified here today. I might mention in closing, that I came across an interesting article the other day. In Japan, where they have been a real model of increasing productivity, they train 1,000 lawyers for every 10,000 engineers. In the United States we train 10,000 lawyers for every 1,000 engineers, and if we would ever get our act together and start training more engineers, there's no telling where this country could go with respect to technological advances.

I think it's kind of interesting that we in this country have tended in recent years to just kind of slow down and have more people fighting each other in lawsuits than we do actually trying to go out and do things.

So I really appreciate the contribution that the four of you have made to these hearings, in addition to all those other people that testified.

The subcommittee will stand adjourned.

[Whereupon, at 3:55 p.m., the subcommittee adjourned, subject to the call of the Chair.]

[The following information was subsequently supplied for the record:]

UNITED PARCEL SERVICE,
Greenwich, Conn., August 11, 1982.

Senator STEVE SYMMS,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR SYMMS: This letter relates to the recent hearings which you conducted before the Joint Economic Committee on the postal monopoly—the Private Express Statutes.

Following my testimony on June 21, Mr. Don Ledbetter, President of the National Association of Postal Supervisors, appeared before your subcommittee as a witness. The transcript of the hearing [page 94] indicates that Mr. Ledbetter stated, "UPS also drops off a lot of parcels at little rural post offices and lets them do the dirty work at the end of the line."

Senator SYMMS. "Do they stamp them then?"

Mr. SOMBROTTO. "Yes."

Senator SYMMS. "They buy stamps, they pay the postage when they do that?"

Mr. LEDBETTER. "They pay the postage from there on."

United Parcel Service takes strong exception to Mr. Ledbetter's statement. It is the firm policy of United Parcel Service not to forward any packages given to it for delivery via the United States Postal Service. Rather, as my testimony states, we do in fact deliver packages daily to the ultimate consignee whether the consignee be in a metropolitan area, a suburb or in a distant rural setting. As I also mention, this service to rural areas is more complete than that of the Postal Service because many rural residents receiving UPS delivery at their doors, must go to the post office to pick up packages. We regard any dereliction of duty in this regard as a very serious matter and Teamster officials concur with us.

We are sending a copy of this letter to Mr. Ledbetter. We ask that he be good enough to furnish us and you with the specifics of any instances in which he knows of packages that UPS has turned over to the Postal Service for delivery. This information will be helpful to us in correcting any possible violations of our policy.

We pride ourselves on our total territorial coverage within the 48 States and we were shocked by Mr. Ledbetter's statement.

We request that this letter be made a part of the record in this hearing, together with any specific, factual details which may be received from Mr. Ledbetter.

Sincerely,

ROBERT E. SMITH,
Vice President.

UNITED PARCEL SERVICE,
Greenwich, Conn., September 30, 1982.

Senator STEVEN D. SYMMS,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR SYMMS: This letter is in response to your letter of July 20, 1982, with which you enclosed certain questions being considered in the Joint Economic Committee hearings on the future of mail delivery in the United States.

Rather than answer each question separately, I have endeavored to respond to them collectively, following the subject breakdown provided by you.

POSTAL OPERATIONS AND COSTS

Because each post office originates mail to be delivered beyond its jurisdiction and also delivers mail which originated at other post offices, it is not helpful to compare revenues generated at that post office with the costs incurred at that office. Such a comparison would relate apples to oranges and be misleading. However, it is possible—and necessary—to perform meaningful cost analyses of Postal Service operations. It is possible, for example, for the Postal Service to know the costs of its various service offerings.

The key to operating efficiency and proper pricing is accurate knowledge of costs. The Postal Service does not yet have an adequate means of determining its costs, though the Postal Rate Commission has encouraged the Postal Service to make greater efforts in this direction. What is required is a complete functional cost accounting system in which costs are developed by work activity and function as well as by class of mail and service. Functional costs include not only those costs which vary with changes in mail volume, but also those costs which, while not variable with volume changes, are caused by providing a class of mail or mail service. The treatment of costs on a functional basis is necessary if the causal links between the incurrence of a particular expense and the provision of a particular postal service are to be recognized and measured.

With a proper functional cost accounting system, it can be determined whether or not a particular class of mail or type of service for which revenue is collected is covering the costs of providing that class or type. In addition, a functionalized cost accounting system will permit management to control costs in the various functions and to improve efficiency of operations.

There are other purposes which can be served if functionalized costs are gathered. For example, one might collect the functionalized costs incurred on a rural carrier route. Although one would not be able by knowing those costs to know if that rural route makes a profit or incurs a loss, because there is no revenue collected on the rural route against which to set the costs incurred, nevertheless knowledge of those costs should be helpful to management.

POSTAL MONOPOLY

In our view, shared by others including the Department of Justice, the presence of the postal monopoly over letter mail permits the Postal Service to charge more for its monopoly service than for those services which are subject to competition. The best proof that the Postal Rate Commission has not been effective in halting abuse of the postal monopoly is the fact that since 1970, when the new Act was passed, the rates for first class mail have increased from 6 cents to 20 cents, or 223 percent, whereas the rates of parcel post have increased only 95 percent and the Consumer Price Index has increased 133 percent. In the absence of a postal monopoly, there would be pressures from actual or potential competition to reduce the rates of first class letter mail.

On the other hand, whether or not there is a monopoly class of mail, there will be need for regulation of the pricing of postal services to protect against the subsidization of postal services that face competition. If there were no statutory monopoly class, the Postal Service would still have a de facto monopoly in letter delivery for many years to come. In the absence of regulation, the Postal Service would have an incentive to increase its revenues from the monopoly service or de facto monopoly service and use those revenues to subsidize its competitive services. The existence of the postal monopoly makes mandatory the need for strong regulation of the rates for both monopoly classes of mail and competitive classes of mail.

Whether or not the Postal Service maintains a monopoly, it is essential that rates for each class of mail be set at levels which will recover the costs caused by that class of mail. Each class of mail, as a matter of sound public policy, should stand on its own feet, and competition by the Government's postal service should be fair in its relations with firms operating in the private sector of the economy. Those principles of cost recovery and fair competition are at the heart of the Postal Reorganization Act and should continue to guide postal ratemaking whatever is done with respect to the postal monopoly.

THE ROLE OF THE POSTAL RATE COMMISSION

The Postal Rate Commission would be more effective and as a consequence postal ratemaking would be a more efficient and fair process were the Commission to be the final authority in the establishment of rates, subject only to the right of appeal by interested parties including the Postal Service. We endorse the concept that the Postal Rate Commission should have final ratemaking authority. The Commission is a full-time, independent body with expertise to evaluate the economic and accounting issues involved in rate changes.

We also believe that it would be desirable for the Commission to have authority to obtain needed data by subpoena from the Postal Service. History demonstrates that requests for voluntary responses and the more formal discovery process are unavailing as against a reluctant Postal Service. It is important that the Commission have the ability to secure data which are essential to make proper rate determinations.

We appreciate the opportunity to appear before the Joint Economic Committee and to contribute our comments on the important issues it is considering.

Very truly yours,

ROBERT E. SMITH,
Vice President.

STATEMENT OF ROBERT W. POOLE, PRESIDENT, THE REASON FOUNDATION, SANTA BARBARA, CALIF.

My name is Robert Poole. I am president of the Reason Foundation, a nonprofit research organization based in Santa Barbara, California. I am also editor-in-chief of the Foundation's magazine on current affairs, REASON. I am presenting this testimony as an individual private citizen, but it is based on my experiences as a policy analyst, as a publisher, and as an individual postal consumer.

Should the Postal Service monopoly on first-class mail be retained? Or should this vital service be opened up to competition? This question does not arise in a vacuum. The last 10 years have witnessed an increased appreciation by economists and public policy makers of the deficiencies of monopoly and the merits of competition. A new approach in economics called "law and economics" has produced strong empirical support for the premise that consumers are best served when markets are competitive. And a new field of political science called "public choice theory" has examined the incentives facing those who manage large government bureaucracies, to show how and why these legalized monopolies fail to perform efficiently and effectively.

The results are starting to show up in public policy decisions. The Airline Deregulation Act of 1978 ended 40 years of de-facto monopoly in airline service, much of which had been defended in the same terms used to support the postal monopoly. The Motor Carrier Act of 1980 partially deregulated interstate trucking, and similar legislation on bus service is pending in both houses of Congress. Several states (e.g. Arizona and Florida) have likewise deregulated their transportation industries.

Monopoly in government-provided services has also come under reasoned attack. Economists James Bennett and Manuel Johnson presented a strong case that public services can be provided at far less cost by contracting with private sector firms rather than relying on government monopolies in their book *Better Government at Half the Price* (Caroline House, 1982). A more theoretical approach is provided by E. S. Savas, Assistant Secretary for Policy Development and Research at HUD, in his new volume *Privatizing the Public Sector* (Chatham House, 1982). Numerous examples of competition replacing monopoly in such fields as garbage collection, park maintenance, and fire protection are provided in my own book, *Cutting Back City Hall* (Universe Books, 1980).

The basic thrust of all of this work is the same. Organizations which possess a legal monopoly on providing a service operate with vastly different incentives from organizations which face competition. In broad terms, the incentives of a bureaucrat are to expand his empire, as measured by the number of employees and the size of his budget. Consequently, it is no surprise that, for example, municipal sanitation departments use three-man trucks where private garbage firms do the same work with two-man trucks; that Navy shipyards spend between four and eight times as much to repair and maintain naval oilers as commercial firms pay to maintain oil tankers; or that private railroad track repair crews repair nearly five times as many feet of track per day as Amtrak crews.

The incentives facing a private-sector manager are quite different. Because his firm is attempting to make a profit, the manager has a powerful incentive to seek out the most cost-effective combination of personnel and equipment that will get the job done. If he doesn't, he may lose the business to some other firm. A private firm will go bankrupt if it fails to serve its customers in a cost-effective way. But a government monopoly merely requests a greater appropriation from the Treasury.

Thus, it is higly likely, based on all that we know about competition and monopoly, that the costs of providing first-class mail delivery via a government monopoly are far higher, on average, than would be the case if there were competition. One indication of this high cost is the wage levels of the USPS's employees, which are far higher than the wages of comparable employees of those firms which compete with the Postal Service in other markets—United Parcel Service, Federal Express, Purolator Courier, Airbone Express, et al.

Some defenders of the postal monopoly will concede that a lack of competition may lead to inefficiencies. But they argue that one overriding policy consideration impels us to put up with these inefficiencies—providing uniform service at uniform rates to all users. Stated another way, they argue that postal customers who cost a lot to serve must be subsidized by customers who are less costly to serve. Essentially, this argument boils down to the claim that urban and suburban postal customers must be forced to subsidize rural postal customers.

The fact is that it *does* cost more to serve rural customers. *Every other form of* document and parcel delivery—telegrams, telex, parcel post, overnight letter, package express—charges rates which vary in some fashion with the cost of service, usually based on distance and/or size of the material. Why should letters alone be paid for in an artificial way? Such a distortion of the market benefits a relative handful of rural residents at the expense of the vast majority of Americans who live in cities and suburbs.

It is difficult to see how such a policy can be justified. Why should those who *choose* rural life be subsidized by those who do not? There are costs and benefits associated with any choice of lifestyle. City dwellers must put up with higher levels of crime, pollution, noise, and congestion than country dwellers. In exchange, they have access to a larger number of choices of commercial and cultural opportunities than country dwellers. The latter willingly choose the beauty, safety, cleanliness, and serenity of the countryside—but in exchange must make do with restricted commercial and cultural choices and, in some cases, with higher costs for certain services. These are *voluntary* choices. People should make their choices and pay the price.

Such a policy would be completely consistent with the philosophy expressed in the President's Commission on a National Agenda for the Eighties. That body's report recommended against federal government efforts to prevent people and industry from leaving cities for suburban and rural locations. It argued that government ought to respect the voluntary location decisions of individual households and firms. Yet by subsidizing rural postage rates, the government is not being neutral; it is artificially reducing the real cost of choosing a rural location.

Postal monopoly advocates sometimes claim that if competition prevailed, nobody would provide rural mail service. The same argument was raised against airline, truck, and bus deregulation. In each case, the prediction has proven false. True, many of the largest firms have pulled out of small cities they once served. But commuter airlines, for example, have stepped into the breach, in many cases providing more flights at more convenient times than the former large carriers. And according to CAB studies, airline fares in the smallest markets are only *12 percent* higher than they would have been under CAB regulation (while fares in the top 100 markets are 13 percent *lower* than under regulation). Likewise, since 1980 trucking rates have generally been cut, and 2,452 new firms have entered the interstate trucking business. Many of the newcomers are providing service to the smaller cities where the major firms have cut back. As long as there is a demand for a service—be it air travel, shipping, or letters—enterpreneurs *will* provide it.

There are several other costs of the postal monopoly. One is a lack of innovation. It is impossible to estimate the price our society has paid in terms of opportunities for new services that we've had to do without. But it is at least indicative that virtually all of the worthwhile recent innovations in parcel delivery have been developed by private firms such as United States Service, Federal Express, etc. in those areas where they are allowed to compete with the US Postal Service. When the latter *does* attempt to innovate, the results are not encouraging. The USPS's highly-touted E-COM system for electronic mail appears to be a gigantic flop, with usage only a fraction of what was projected. The fact that E-COM was targeted at firms sending out bills *but enclosure of a return envelope was not allowed* demonstrates a total lack of marketing orientation on the part of the Postal Service. Even the modestly successful Express Mail service is hedged about with restrictions and limitations that make it less versatile than competing priority delivery services of the private sector.

Another cost of the postal monopoly is restricted freedoms. Numerous individuals and small businesses have been harassed and put out of business for attempting to deliver mail. Perhaps more fundamentally, Americans' freedom to communicate is impaired by placing control of the mail in the hands of the government. No individuals are harassed by postal inspectors because they order publications dealing with sex via United Parcel Service. But if the material is shipped by US mail, they risk being ordered to appear at the post office, made to feel like a criminal, and having the material seized. One need only recall the long-term mail-opening project of the CIA to be aware of the threats to privacy and personal liberty inherent in government operation of a vital means of communication.

In short, there is no real justification for a socialized postal system. Delivering letters is a business, one which private firms are willing and able to engage in (as shown by the explosive growth of private express services, courier services, parcel mailing centers, and electronic mail). It's a business whose customers can and should pay their own way. And it's a business whose subject matter—personal communications—is far too important to be entrusted to government.

It's long past time that we repealed the Private Express Statutes and ended the postal monopoly.

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DENATIONALIZING THE MAILS

(By Jeff Sampson)

In 1976, Patricia and J. Paul Brennan, residents of Rochester, New York, made a fascinating discovery. Frustrated in their use of the United States Postal Service for local mail, they decided to bypass the problem and hand-deliver their letter communications. Soon, the Brennans were delivering not only their own letters but others' as well. What the Brennans discovered was that they could hand-deliver mail within downtown Rochester, guarantee same-day delivery, and charge three cents per letter *less* than the Postal Service. The Brennans founded the P. H. Brennan Hand Delivery Service for fun and profit.

In early 1977, the Brennans made another discovery: they had broken the law, and it would be enforced. The US District Court for western New York shut down P. H. Brennan Hand Delivery Service and enjoined it from delivering the mail. The Brennans battled, but on April 13, 1978, the United States Court of Appeals, Second Circuit, upheld the injunction. And four months later the Supreme Court stopped the Brennans cold by refusing to hear their appeal.

What befell P. H. Brennan is not unique in history. Like others before them, the Brennans had been masticated au flambé in the jaws of the Private Express Statutes.

The Private Express Statutes defend the Postal Service's monopoly on the handling of first-class letters against the intrusions of free enterprise and competition. No other type of mail is so protected—not books, magazines, newspapers, bulk mail, nor parcels. The statutes are like a crocodile-infested moat, behind which the Postal Service has labored feverishly to shore up the moldering walls of its once-invincible castle.

Formidable foes are fighting to dry up the guardian moat. Among them is Congressman Philip Crane, who testified before the Senate Post Office and Civil Service Committee: "Full-fledged competition with the Postal Service is effectively prohibited, and that is the problem. Without competition, there is no incentive to improve, to cut costs, to provide better service, to innovate, and ultimately to satisfy the postal consumer."

Added Crane, citing the earlier conclusions of the President's Council on Wage and Price Stability, "Permitting competition to the Postal Service's first-class service probably would result in significant benefits to the economy and to the mail user." Crane concluded: "In short, more and more people here and elsewhere, frustrated by rising postal costs and declining postal service, are looking for alternative ways of providing the desired service at an affordable price. If the operation set up by the government cannot or will not do the job, then it stands to reason that private enterprise should be given a chance."

MONOPOLY TRADITION

Give private enterprise a chance? Absolutely unprecedented, say postal authorities. Charles D. Hawley of the Postal Service's Legal Affairs Office invokes tradition: "The Statutes have been part of American law in one form or another since the Articles of Confederation. They protect against the loss of revenues that could be anticipated if the Postal Service had to compete for the delivery of letters with private firms which do not provide the comprehensive nationwide service that, as a matter of law, is required of the Postal Service at generally uniform rates." Actually, the history of government monopoly over the mails goes back even further than Hawley claims.

The US postal monopoly springs from early European monarchy, where sovereigns, for military and security reasons, maintained exclusive government handling of the mails to ensure delivery of their own communications and control over everyone else's. England exported this practice to the American colonies. In 1692, William and Mary granted Thomas Neale a royal patent for exclusive carriage of letters.

As the nonunited states of colonial America unified against the British throne, the Continental Congress felt a need for a well-controlled postal monopoly in order to carry out its revolution. So "by the time John Hancock, with a flourish, set his hand to the Declaration of Independence, the tradition of a government monopoly over the carriage of correspondence was well-established in the lives of the people" (as pointed out in a 1973 report to the Post Office and Civil Service Committee). The Articles of Confederation codified this practice by granting "sole and exclusive powers" to the Congress.

The federal Constitution, however, said nothing about a monopoly. Article I decreed: "The Congress shall have Power to establish Post Offices and Post Roads." But Congress bolstered its power by passing the Private Express Statutes in 1792. With various revisions and clarifications they remain to this day the bastion of the postal palace—a palace that endures steady siege.

INEFFICIENCY

Besides the fury and frustrations documented in individual recollections of a lost letter here, a delayed delivery there, or the payment that never arrived, there are ongoing revelations of financial mismanagement, operational inefficiency, and an absence of intelligent, long-term planning. Such a revelation appeared recently in one of Jack Anderson's *Washington Post* columns, entitled "Bulk Mail Center: Automated Nightmare."

The Postal Service, notes Anderson, spent a billion dollars on 21 automated bulk mail centers to speed the processing of parcels and other non-first-class mail, thus saving the Postal Service in the neighborhood of $300 million dollars a year. But woe unto the customer whose parcel drops on those conveyor belts! "Packages that get jammed in the automatic conveyors are ripped apart. Attempts are made to patch them up, but the many Humpty Dumpty irreparables end up in a parcel graveyard—a room designated 'loose in the mail,' off-limits to all but a few employees. Our reporter got inside for a look around, and found thousands of items from books to homemade Christmas presents. There were so many books that they had been arranged by topic on metal shelves.

"When the 'loose in the mail' room is full, the items are moved to a depository in Washington, where they're auctioned off to the public."

Mr. Anderson adds: "Nor is there any evidence that the bulk mail system saves time. A package en route from El Paso to Midland, Tex., for example, is sent 1,483 miles out of the way to be processed by a bulk mail center." He also points out that the $300 million projected savings has been revised downward to $40 million. And George Gould, staff director of the House Postal Subcommittee, claims that the centers are actually losing money.

Give free enterprise a chance? The opportunity arose nine years ago, but it wasn't taken up.

Citing the Chicago Post Office's disastrous breakdown and shutdown during the Christmas crunch of 1966 as the precipitating event, then-Postmaster General Larry O'Brien, embarrassed at having to borrow about $30 million to repair damages, called for a commission to study complete postal reorganization. President Johnson appointed Frederick R. Kappel to head that commission, which concluded that too much politics was the problem and that the Post Office should be run as a business, eventually to stand on its own fiscal feet, and not as a governmentally controlled and subsidized agency. The result was the Postal Reorganization Act of 1970. Like most sweeping governmental reforms, the first major stroke was a name change—from the creaky-toned "Post Office" to the space-aged "United States Postal Service."

NO PROFIT

The USPS is set up somewhat like a corporation: The president of the United States appoints nine governors, who appoint the postmaster general, who along with the governors appoints the deputy postmaster general. Together, they make up the Board of Governors. The board is comparable to, though not identical to, the board of directors of a corporation, and the postmaster general and his deputy are the chief operating officers. Under the governors is the Postal Rate Commission, which recommends rate changes to the governors after a lengthy, competitive, and judicial-like process.

All this was touted as ensuring the least possible political interference in moving the mails. Looked at another way, it meant the pressure was off the president and Congress to ensure effective mail service. This was a Postal Service based on the American model of efficiency, excellence, and innovation: the corporation. But it lacked an important key element: the profit motive. For the Kappel Commission had recommended maintaining the Private Express Statutes. And so they remained. And so private enterprise was kept at bay.

In May 1973, the first chairman of the Board of Governors, the same Frederick R. Kappel, proclaimed triumphantly to the Subcommittee on Postal Service, "We have been in business a year and a half now, and no one gives any thought to any man's politics on that Board of Governors today. We are dedicated to the business of running the Postal Service." During the Christmas season of 1974, the Chicago Post Office repeated its 1966 performance and broke down. Of course, it had only been four years since the great reorganization, and perhaps that wasn't enough time to reverse postal problems.

Nor, apparently, was six years. In 1976, M. A. Wright, new chairman of the Board of Governors, went before the congressional committee and bragged of fewer personnel, greater efficiencies and good marks from the General Accounting Office in quality of mail service, reasonableness of rates, and quality of compensation and working conditions. He also, though, requested a billion-dollar bailout from Congress because of inordinate delays in rate increases and double-digit inflation. Congress came through, rescuing the Postal Service and essentially giving up any hope of a deficit-free postal organization.

TIME FOR COMPETITION?

How about seven years? A January 1977 report by the US Department of Justice, *Changing the Private Express Laws*, concluded: "Given the tremendous problems that now confront the Postal Service, it is not irresponsible to argue that things are now so bad that any change can only be for the better."

Or eight years? A study published by the American Conservative Union's Education and Research Institute in September 1978 asserted: "Observers of all persuasions agree that the Postal Reorganization Act has been a failure. The two main goals of the act—efficient management and self-sufficiency—remain unachieved."

Could it be that Congressman Crane and those who agree with him are right? Could it be that former chairman of the Postal Rate Commission John Ryan was correct when he said, "The only solution to the problem of adequate mail service is competition and is to do away with the Private Express Statutes?" Is it an idea whose time, long overdue, has come?

No, no, and no are three responses by current Postmaster General William F. Bolger on three occasions when he confronted these questions. On the October 20, 1978, edition of the "MacNeil/Lehrer Report" on public television, the postmaster general declared: "I think we're trying to protect the interests of the American public in saying that this monopoly has to be continued." In a November speech before the National Newspaper Association, Bolger affirmed: "If we should lose our monopoly, it will mean the demise of the postal system as you have known it." In a December speech before the National Press Club, he reiterated: "Should our monopoly be broken or even weakened, it will be a tragedly that will cost this country its universal postal system."

Title 39 of the US Code provides that "the Postal Service shall have as its basic function the obligation to provide postal services to bind the nation together through the personal, educational, literary, and business correspondence of the people. It shall provide prompt, reliable, and efficient services to patrons in all areas and shall render postal service to all communities." The rule also requires that the rate for each class of mail "shall be uniform throughout the United States, its territories, and possessions."

First-class mail is the bulwark of the postal system. It accounts for 60 percent of the approximately 97 billion pieces of mail that the service will handle this year and is the source of close to 70 percent of postal revenues. Not all first-class mail falls under the statutes, which pertain solely to letters; but most does. In fact, delivery services and customers alike often complain of the ever-broadening postal interpretation of the term *letters*.

FIRST-CLASS CREAM

"The problem is," says Postal Service attorney Jerry Belenker, "that the costs of delivering any given letter vary. It may go from downtown Manhattan to downtown Manhattan; that's relatively cheap. It may go across the country. To maintain the nationwide system, you have overhead in terms of transportation systems, contracts with airlines, etc. You have stations, branches, and you have huge overhead that has to be apportioned among all the pieces of mail—not only letters, to be sure, but among all the pieces of mail—without regard to the fact that, at any instance of delivery, from a business point of view, you are making a profit or losing your shirt. I don't know of any other business that can reject nobody. We can't make a determination that your business is good for us, because we're a public service, and we don't deal with the point of whether we make money."

Repealing the Private Express Statutes would mean the loss of a substantial portion of the already indebted and subsidized Postal Service's income without an attendant diminution of costs and overhead, according to Postal officials. And that, they say, is unfair "cream skimming."

The cream-skimming complaint relies on the reality that areas of dense population and business and banking concerns, such as metropolitan cities, provide the greatest revenues at the lowest per capita handling costs, whereas sparsely populated and widely separated areas, such as rural towns, provide the lowest revenues at the highest per capita handling costs. The Postal Service fears that private competitors would voraciously devour the high-income, low-overhead cream and leave the curds and out-of-the-way locations for the USPS, robbing it of the finances it needs to carry out its congressional mandated requirements and all manner of investigative, legal, and customer services.

In 1973, McKinsey and Company, commissioned by the USPS and using its statistics, studied the cream-skimming argument. Their results supported the USPS position with three principal findings. First, "Local mail involving business transactions appears to be the most attractive market segment for potential cream-skimming competition to the Postal Service for reasons of operating simplicity and low processing cost." Second, "Cream skimming enterprises could be highly attractive to entrepreneurs." Finally, "Cream skimmers would divert substantial First Class mail volume from the Postal Service."

The McKinsey analysis indicated that the Postal Service could lose about 4.7 billion pieces and about $420 million in revenues annually. Those figures would be considerably higher today, of course. With this argument, USPS lawyers squash would-be competitors in the courts. The judges always buy the argument.

CREAM SKIMMING

Economists, though, point out that cream skimming—in spite of its pejorative connotation—can be great for consumers. Established suppliers accuse entrepreneurs of siphoning off the most profitable business, but to get that business they have to be charging a lower price, offering better service, or boh. Thus, notes John Haldi of the American Enterprise Institute: "In a competitive market, cream skimmers are the good guys who protect consumer interests by keeping other suppliers honest."

The USPS, of course, is required by law to provide services at a loss—such as maintaining post offices in little towns all across the country, or providing lower rates to tax-exempt organizations—and that's why it needs all of its first-class revenue, says USPS defenders. And, notes economist Alan Reynolds in the *Harvard Business Review* ("A Kind Word for 'Cream Skimming'," Nov.-Dec. 1974), "there is an element of plausibility in [the] assertion that high prices are needed to offset low ones" whenever a company "is compelled by the state to engage in activities that are not economically justifiable."

But this USPS defense still doesn't ring true because, as Reynolds goes on to point out, the USPS loses a lot of money where it wouldn't have to. It makes money *only* on first-class services, whereas private carriers, he notes, have entered the third- and fourth-class (and now second-class) markets, undercut the

USPS's "supposedly unprofitable" rates, and made money. Concludes Reynolds: "The fact that competitors can profit from a service that is unprofitable for the tax-exempt and subsidized USPS suggests that the USPS may simply be inefficient. If so, the monopoly rates on first-class mail actually subsidize inefficiency; this seems, at best, a dubious policy objective."

In fact, the Postal Reorganization Act leaves no room for cries against cream skimming. It requires that each class of mail pay its own way and contribute some to institutional, fixed costs. The act specifically precludes subsidization of any class of mail by another. Few outside the Postal Service believe that this requirement is being observed.

A 1977 study by the Department of Commerce reported: "It is widely accepted that first-class mail subsidizes other classes." The report went on to cite the 1974–75 postal rate-increase hearings at which Chief Administrative Judge Seymour Wenner had recommended that the first-class postage rate be reduced from 10 cents to 8½ cents per ounce "to bring rates more in line with costs." The judge had condemned the Postal Service management for failing to carry out the directives of an earlier appeals court to correct the improper attribution of costs to various types of mail. Judge Wenner had argued that "the rate increases proposed for first-class perpetuate this allegedly illegal procedure," said the Commerce Department study. "He obviously felt that first-class-mail users bear an unfair share of the overall Postal Service costs." Despite Judge Wenner's admonitions, the price of a first-class stamp rose from 10 cents to 13 cents.

The Postal Service argues that its rate-making procedures are more competitive than if rates were arrived at in a free marketplace. In the last rate-increase hearings, more than 50 parties participated. There was a discovery process at which Postal Service witnesses had to answer over a thousand questions. There were cross-examinations and days of hearings, briefings, and oral arguments. In addition, the Postal Rate Commission has an officer—with a staff of lawyers, statisticians, and economists—whose sole purpose is to represent the public interest.

Nevertheless, rates have continued to rise to the present level of 15 cents and would probably have gone higher if the postmaster general hadn't determined that the rates were about as high as the public would stand at present. (He has promised—cross-his-heart-and-hope-to-die—no increase until at least 1981.) Given the usual excuses of higher labor costs, skyrocketing fuel costs, and inflation, could true competition have averted the price increase? It did in fourth-class mail.

HOW TO PUSH RATES DOWN

Sitting complacently behind its protective statutes and its government subsidies, the old Post Office and the early Postal Service fiddled while United Parcel Service burned off 70 percent of the fourth-class parcel post business. It wasn't hard to lose. UPS undercuts USPS rates in most cases. It delivers nationwide and its rates are uniform based on weight and distance traveled with no added financial burden to rural recipients. UPS has a record of faster service, less breakage, and fewer losses. Its employees are well-paid, share in profits, and have a lucrative benefits package. It makes a profit every year and has cost the Postal Service a substantial portion of its operating revenues. So competitive is UPS that government agencies like the IRS and the Government Printing Office have begun diverting some of their business from the Postal Service to UPS.

How is the Postal Service reacting? Does it lobby for broader statutory control of the market? No.

According to the *Washington Post*, Postmaster General Bolger announced on February 13 that the USPS is liberalizing its Parcel Post system to compete more evenly with UPS. Among its changes is a *cut* in bulk mail and parcel post rates.

In another article, the *Post* reported that, faced with the loss of congressional subsidies for delivery of newspapers and seeing increasing competition in delivery of magazines, books, and records the Postal Service announced it is in the process of changing up to 75 regulations regarding bulk mail delivery in order to make it more attractive to potential customers. Said Bolger: "There are literally hundreds of other regulations that we are scrutinizing. Many of these date from the beginning of this century and bear no relationship to the way the Postal Service and its customers today do business."

What stunning revelation finally enlightened the Postal Service? Why is it now examining and updating century-old regulations? What caused it to join the new age? The answer is obviously competition, and not just from companies like UPS.

ELECTRONIC COMPETITION

The ultimate challenge to the sanctity of the Postal Service is sure to come from the modern communications era in general. An example is electronic funds transfer already in operation in banks across the country. Someday most financial transactions will be done by telephone or similar electronic media. Estimates have it that approximately 60 percent of all letter mail involves financial transactions: bills sent, payments submitted. So the Postal Service of the not-too-distant future stands to lose up to 60 percent of its protected monopoly unless it either gets into the electronic transfer business or somehow broadens the interpretation of "letters" to include some tangible moment in the electronics process.

As far-fetched as that may sound, Kenneth Robinson, an attorney for the Antitrust Division of the Department of Justice points out: "the term letter has been interpreted to include, for example, payroll checks, fishing licenses, Mickey Mouse posters, San Francisco Forty-Niner Tickets, punch cards, blueprints, data processing tapes, computer programs, credit cards, boxes of merchandise with advertising enclosed, intra-company writings—in short as one district court ruling recently suggested, 'anything properly transmittable' through the US Postal Service mail system."

The Postmaster General has repeatedly denied that the Postal letter monopoly would ever encompass electronic communications. He seems confident that it can depend on at least 70 billion pieces of hand mail each year. He indicates that the Postal Service is moving into the electronic transmission business and is experimenting with Communications Satellite Corporation of America (Comsat) in something called Intelpost, a sort of long-distance mixture of telegram and facsimile via satellite. Bolger also believes that the Postal Service has at least 10 or 20 years to gear up for the electronic transmission business. But what if changes occur more rapidly than expected? Will the Postal Service again raise the drawbridge and deepen the moat?

Safely behind the Private Express Statutes, the Postal Service can afford to watch and wait for a sign from above. Without the statutes, it would be forced to get with the times and plan in earnest to avoid a future catastrophe.

POLITICAL HOT POTATO

But would it really be catastrophic for the Postal Service to diminish its scope and relinquish some of its holdings? It would according to the American Postal Workers Union and the National Association of Letter Carriers, who themselves went to court in 1972 to defend their monopoly against a private intruder. The salient aspect of *National Association of Letter Carriers* v. *Independent Postal Systems of America, Inc.*, was not that printed Christmas salutations were considered letters but that the union empowered by the Postal Reorganization Act, went to court to protect the monopoly.

The union's stake is over 650,000 permanent positions paid so well above the norm that the quit rate for postal workers is significantly below comparable positions in related fields. In addition, the current contract contains a no-lay-off clause for those currently employed.

Specific and urgent requirements of some industries have forced the Postal Service to grant exceptions, exclusions, and suspensions to the statutes in areas such as time-sensitive and similar materials where it simply couldn't do the job itself. But such exemptions are slow in coming and begrudgingly granted. Mail express companies are kept well in check, and their customers still have to pay postage in addition to courier charges. Repeal of the statutes would allow companies specially equipped to provide their services at the lowest costs. Despite vocal consternation at the vagaries, interpretations, and enforcement of the statutes, courier Lilliputians are not anxious to challenge the postal giant for fear of retaliatory sanctions.

Where do the White House and the Congress stand on this issue? Apparently, as far away as possible. Mike Causey's January 24 "Federal Diary" column in the *Washington Post* would be amusing if it were not so telling: "Five of the cushiest jobs in federaldom are still standing vacant. Some have been unoccupied for several years. They are members of the US Postal Service's Board of Governors." In addition, the Postal Rate Commission is missing three of its five members.

May one infer that the president is not interested enough to fill five vacancies on the ruling body of the Postal Service? House Postal Subcommittee Staff Director George Gould blames it on the inexperience of the administration, claiming it is still learning. But the fact is that, since the postmaster general was removed from the Cabinet under the Reorganization Act, presidents have scrupulously avoided dealing with that all-American institutional whipping boy.

The House Post Office and Civil Service Committee, once a political plum, has turned into a revolving door since it stopped setting postal and federal pay raises and guarding postal patronage and prices. So much so that Mike Causey was moved to write on January 31: "Some members feel that association with the committee, even as a tough tailkicker, is politically dangerous." He adds, "The Democratic leadership must resort to the draft to get a full complement for this session of Congress."

The Congress, then, is not likely to open the political pandora's box that repeal of the statutes would certainly provide—especially with large-scale mailers relying on discounts subsidized by the higher, regular first-class rates. Then, too, there's the congressional franking privilege.

PRIVATIZATION PLAN

Practically every independent study of the Private Express Statutes sees their demise as potentially beneficial. But almost all stop short of recommending repeal and conclude instead that the issue should be studied more carefully. The rationale is lack of enough statistical information to justify so momentous a change (never mind the historical record of this country's free marketplace). Any thorough study would require crossing the moat and entering the castle before the drawbridge goes up. But the Postal Service is more amenable to sending out an emissary or two with its version of the accounts. And when a judge in a rate case once asked for a better accounting, the Postal Rate Commission simply overruled him.

The only way to visualize clearly the results of repealing the Private Express Statutes is for Congress to announce that in so many years, say by 1984, the statutes will be phased out (1984, by the way, is the year the Postal Service was to become totally self-sufficient). This would force USPS to adjust and give it time to do so. Private carriers could gear up for action, and postal unions could varnish their bargaining tables.

It is quite possible that the Postal Service would look different after such a change. It might shrink some, diversify, or merge with another government service organization. But any predictions that free enterprise would destroy America's hard-copy communications system seem unfounded. In fact, a study of the postmaster general's speeches, coupled with recent postal developments, indicates that competition makes the Postal Service better, not worse.

Will Americans get the faster, more efficient communications delivery services they could be getting? Legislators should consider that the important issue is not the survival of the Postal Service but the survival and enhancement of postal *service*. Castles and crocodile-infested moats went out with the Middle Ages.

STATEMENT OF GEORGE HARVEY, CHAIRMAN, CHIEF EXECUTIVE OFFICER, AND PRESIDENT, PITNEY BOWES INC., STAMFORD, CONN.

Pitney Bowes Inc. is the nation's leading supplier of postage meters and mailing systems used by businesses. As such, we are vitally concerned with the quaity of mail service available to our one million business customers and to all Americans today and far into the future. Accordingly we share the Postal Service's concern over the future for conventional or "hard copy" mail and the necessity for the continuation of the Private Express Statutes to insure the mail system.

To this end, we are interested in the efficient operation of the United States Postal Service, and its ability to meet both its constitutional and statutory mandate for universal postal service—the delivery of mail to all citizens and businesses in all areas of the country. As a profit-making, publicly held corporation, Pitney Bowes is sympathetic with those who have articulated an economic theory calling for the free and open competition of the market place. However, we strongly feel that there is an overriding public interest in assuring the viability of universal postal service.

Advocates of repeal of the Private Express Statutes have raised a false issue by couching debate on repeal in terms of the rhetoric of competition. The policy question on this matter is not a choice between "monopoly" and "competition." Rather, it is a choice between the universal service concept mandated by the Postal Reorganization Act of 1970 and the probable deterioration of the nationwide postal system charged with discharging that mandate. It is unlikely that any private entity will undertake that commitment to provide uniform mail service to every home and business in the country, regardless of location, profitability, or risk.

It must be recognized that the Postal Service is not simply another business. It is a unique public resource. It meets that special obligation to serve areas which may not be commercially feasible through its unexcelled network of postal facilities. It provides special consideration for various interests, including the Congress, the military, the literary and educational community, and non-profit organizations.

In this context, the Private Express Statutes reflect a long-standing commitment to protect the basic integrity of the only underaking, public or private, capable of responding on a non-discriminatory basis to universal service objectives. The Statutes have never prevented the private sector from meeting public needs. Rather, they have facilitated private industry in offering services which complement existing mail operations.

It is apparent that the USPS has not sought to extend its territory beyond the basic letter mail market. As a current example, the USPS has not sought to "monopolize" electronic access to the mailstream; it has fostered competitive participation. It has confirmed the right of private communications carriers to deliver time-sensitive hard copy output of electronic services. And, it has accomplished all of this while maintaining the lowest letter mail rate in the free world.

There is obviously no basis to conclude that the Postal Service has been hostile toward private industry or has sought to thwart competition. The Postal Reorganization Act recognizes that although mail service is a public good that cannot be offered on a competitive basis, it nonetheless can be managed and organized on an efficient, businesslike basis. Like any operation for the public good, it is truly a partnership of many businesses, large and small, working jointly to supply the underlying facilities and services that support the USPS' nationwide task. The Private Express Statutes do not intrude on this partnership. They merely reflect that the essential postal function, authorized by the Constitution and defined by statute, cannot be relegated to a commercial enterprise.

We reiterate our support for the following policies:

Congress should take no action to derogate the responsibility of the United States Postal Service, as specified in the Private Express Statutes, for the delivery of letters.

The Private Express Statutes should continue in their current form and application, with responsibility for suspensions and exemptions handled administratively.

The Congress should not thwart or impede the continuing evolution of the USPS through the incorporation of modern electronic technology into its hard copy delivery service. Such progress does not encroach upon the competitive marketplace for electronic services.

I. UNIVERSAL SERVICE WILL NOT BE MAINTAINED IN A COMPETITIVE MARKETPLACE

The concept of universal mail service is not compatible with the conflict of the marketplace. Economic realities would force private industry to focus on the lucrative high-density routes where they would find the greatest profits—ignoring less rewarding routes. The Postal Service, however, would still be bound by statute to provide equal service to the entire nation. This would result in either crushing deficits, the requirement for significant federal subsidies to maintain services, or grossly unequal mailing costs.

Universal mail service is a staggering task. As the Postmaster General informed the Joint Economic Committee in his June 21, 1982 statement, the United States postal system encompasses over 39,000 postal facilities and about 175,000 delivery routes throughout the country. Currently, the U.S. Postal Service delivers over 110 billion pieces of mail a year to 79 million mailing addresses. Mail volume is projected to top 125 billion pieces by 1985 and will continue to rise in the years beyond that.

Despite the cost of this enterprise, the 1981 deficit totalled $587.5 million, the USPS has made impressive progress toward achieving self-sufficiency. The share of postal costs borne by the taxpayers has decreased dramatically under the Postal Reorganization Act—to six percent in fiscal year 1981 (when the deficit totaled $587.5 million) from 24 percent in 1970. In fact, in the latest accounting period there was a surplus of nearly $400 million. This progress is attributable both to continued growth in First-Class mail volumes and to increases in productivity.

For the future, postal self-sufficiency depends upon maintenance of First-Class mail as a basic revenue source. The alternative would necessarily be to increase subsidies or face deterioration in service levels that now promise next-day delivery for 95 percent of all mail. More important, the nation would lose the unique public service character of the USPS.

As this Committee is well aware, appropriated funds are necessary to support various operations of the USPS that are offered at no charge or well below cost. Support is also necessary to ensure universal service to communities where post offices may not be self-sustaining. Special rates for educational materials, franked or free mailing privileges to various groups, including the members of Congress and of the Armed Forces, the Diplomatic Corps and the blind and other handicapped persons, are all in furtherance of the USPS basic function "to bind the Nation together through the personal, educational, literary, and business correspondence of the people." Revenues devoted to these purposes cannot be diverted to support the Postal Service's self-supporting services, such as First-Class mail. To the contrary, the earnings of the self-supporting services may be used to assume the "reasonably assignable" costs of postal operations that otherwise might be allocated to those services that make informational, cultural and educational contributions to society.

Assuming FTC Chairman Miller's testimony to this Committee correctly reasoned that a mail service provided under a competitive framework could reduce the price of First-Class mail to "cost-based" levels, it follows that the level and quality of service likewise would conform to marketplace criteria. All of the special services, concessions and benefits mandated by the Congress in the Postal Reorganization Act would be foregone. These services heed to public policy requirements that a purely market-driven service must ignore.

II. THE PRIVATE EXPRESS STATUTES, AS IMPLEMENTED BY THE USPS, HAVE ALLOWED A COMPETITIVE MARKETPLACE TO DEVELOP IN SERVICES ATTRACTIVE TO PRIVATE INVESTORS

Postal critics have claimed, wrongly, that the Private Express Statutes have been administered in ways that blunt private initiative and stifle potential competitive opportunities in the rendition of new and innovative message services. Yet, with the exception of one or two anecdotal examples pertinent to the experience of the old Post Office Department, these critics can point to no actual instances where establishment or expansion of message services has been prevented by the USPS through invocation of the Statutes. To the contrary, the experience of the Postal Service supplies a complete refutation of their highly exaggerated claims of competitive injury.

The USPS has suspended the application of the Private Express Statutes in cases where private industry has shown itself ready, willing, and able to offer innovative services, even when these competitive services threatened to divert postal volume. Obvious examples include overnight package and document delivery services, comprising an entire industry that competes with USPS "Express Mail."

Another significant example is electronic mail, where the USPS has also demonstrated sophisticated restraint. Certain critics have suggested that such services may be vulnerable to encroachment upon the private sector by the USPS, through improper enforcement of the Private Express Statutes. These concerns have proven unfounded. The Statutes give exclusivity only for the delivery of "letters" or "packets" over postal routes. The courts have held that letters are properly defined to include only those messages that are directed to a specific person or address *and* recorded in or on a tangible object. The USPS Board of Governors has also made it plain that it has no desire to seek to extend the Statutes to encompass so-called "Generation III" end-to-end electronic services. Moreover, even though the Statutes might well reach the local delivery of the tangible hard copy produced by an electronic transmission service, the USPS has proposed to allow the private carriage of "time-sensitive" correspondence when it is clear that the USPS cannot provide a comparable service that would meet the senders' needs.

In an increasingly competitive market, this concession is highly significant. It is further evidence that the USPS does not intend to block or thwart competition. To the contrary, the USPS is willing to give every inducement and encouragement to private industry to provide superior performance. Accordingly, the USPS has enabled multiple carriers, data processing service entities, and users to establish direct access with Serving Post Offices handling the end delivery of electronically originated messages. There is clearly no "monopoly" over the electronic portion of E-COM. The USPS has maintained sole responsibility only over that portion of the service that private industry is not committed to pursue—universal delivery of hard-copy messages.

III. THE PRIVATE EXPRESS STATUTES CONTRIBUTE TO THE UPGRADING AND MODERNIZATION OF POSTAL SERVICES, WITHOUT INFRINGING UPON THE PRIVATE SECTOR

Ironically, the most vociferous proponents of repeal of the Statutes argue that if mail service remains entrusted to the USPS, it will fail to keep pace with modern technology and other improvements in postal operations. The irony is, as we have mentioned, that these critics and their allies in the telecommunications industry have used speculation regarding the application of the Private Express Statutes as a pretext by which to attempt to foreclose the very developments that the USPS has found necessary to ensure the continued viability of the mail system. For its part the USPS has structured electronic mail offerings so as to ensure that open competition rules the electronic portion.

Wisely, Congress thus far has avoided permitting itself to become a party to self-serving industry efforts to stifle postal initiatives to upgrade and modernize its service in ways that are consistent with our free enterprise economy. Among its objectives, the Postal Reorganization Act mandates that the USPS provide prompt, reliable and efficient services to patrons in all areas and in all communities; give the highest consideration to the requirement for the expeditious collection, transportation, and delivery of important letter mail; promote modern and efficient operations; and refrain from engaging in any practice which restricts the use of new equipment or devices which may reduce the cost and improve the quality of postal service. Repeal of the Private Express Statutes can only derogate from these accomplishments.

Increasingly, the USPS is subject to competition from new technological alternatives to letter mail service. Such competition carries with it the threat of diversion of mail volume to new media that are outside the scope of the Private Express Statutes. Thus, apart from the mandate of the Postal Reorganization Act, the USPS has a market incentive to modernize its service. But so long as the USPS maintains its character as a public service, rather than as a purely commercial enterprise, it must be allowed to rely upon the base of mail volume and revenue assured by the Statutes in order to support necessary improvements.

IV. CONCLUSION: THE PRIVATE EXPRESS STATUTES CAN ONLY BE REPEALED AT THE EXPENSE OF IMPORTANT PUBLIC VALUES

As in all matters of public concern, the ultimate judgment on the continuation of the Private Express Statutes must balance competing and conflicting values. In this debate, the root issues pertain to the basic character of mail service.

If those who have questioned the necessity for the Private Express Statutes are merely concerned with the possibility of the USPS overreaching into the private sector, their concern is easily laid to rest by examining the record of actual experience. This experience belies the critics' suspicions of anticompetitive intent in the administration of the Statutes.

If, on the other hand, the concern is over the adequacy of postal operations and service under a regime of exclusivity, the debate properly should reflect how the Private Express Statutes have contributed to the progress and development of the postal service to date and how further progress ought to be spawned by protecting universal service through the judicious application of the privilege confirmed by existing legislative authority.

These concerns are not addressed by requiring the USPS to justify its function in terms of "natural monopoly," as was suggested by FTC Chairman Miller. Rather, the burden of proof is on the proponents of change. For, as they acknowledge, the movement away from the *status quo* means that many of the public service aspects of the postal system will be sacrificed in the name of commercial expediency, particularly if selective, profit skimming entry is sanctioned under the guise of competition.

Properly understood, the Private Express Statutes confer, not a right, but a privilege that must be justified in terms of user needs and service objectives. These criteria are paramount and must frame the debate over the continued validity of the Statutes, not the attenuated and misleading concerns of would-be postal "competitors," who have no intention of undertaking universal, nationwide mail service.

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